

IDAPA 44 - OFFICE OF ADMINISTRATIVE RULES

44.01.02 - RULES GOVERNING RULE WRITING IN IDAHO

DOCKET NO. 25/0101.1201

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

TAKEN DECEMBER 4, 2012

REPORTED BY:

MARY (RAINEY) STOCKTON, CSR No. 746

Notary Public

Public Hearing of THE IDAHO OUTFITTERS AND 12/4/2012

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| <p>1 THE HEARING OF THE IDAHO OUTFITTERS AND</p> <p>2 GUIDELINES LICENSING BOARD, was taken at The Shilo Inn,</p> <p>3 780 Lindsay Boulevard, Idaho Falls, Idaho, commencing at</p> <p>4 7:30 P.M. on December 4, 2012, before</p> <p>5 M. Rainey Stockton, Certified Shorthand Reporter and</p> <p>6 Notary Public within and for the State of Idaho, in the</p> <p>7 above-entitled matter.</p> <p>8 APPEARANCES:</p> <p>9 RICHARD L. GARDNER, Ph.D.</p> <p>10 BOOTSTRAP SOLUTIONS</p> <p>11 752 East Braemere Road</p> <p>12 Boise, Idaho 83702</p> <p>13</p> <p>14 JAKE HOWARD, EXECUTIVE DIRECTOR</p> <p>15 IDAHO OUTFITTERS and GUIDES LICENSING BOARD</p> <p>16 1365 North Orchard</p> <p>17 Boise, Idaho 83706</p> <p>18</p> <p>19 WAYNE HUNSAKER, Board Chairman</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p>1 you have an opinion, if you could stand up and state</p> <p>2 your name for the record, I would really appreciate it.</p> <p>3 MR. GARDNER: Yeah. Whoever wants to begin,</p> <p>4 and if Rainey can't hear you, she may ask you to come a</p> <p>5 little closer to the front so she can.</p> <p>6 A VOICE: Can I just ask a question for</p> <p>7 clarification?</p> <p>8 MR. GARDNER: You bet.</p> <p>9 A VOICE: On the first page there, 3A,</p> <p>10 Non-outfitted Areas for Waterfowl. And then there's a</p> <p>11 number of waterways.</p> <p>12 Drop down to number 1i or ii. It says the</p> <p>13 Teton River upstream from Highway 33.</p> <p>14 So, is that just limited to the river, the</p> <p>15 high watermark that they cannot outfit so they have the</p> <p>16 river and three feet, but everything else, they could,</p> <p>17 if I understand this correctly.</p> <p>18 MR. HUNSAKER: Well, that's to be determined</p> <p>19 yet. I mean, if the consensus is and we feel that it's</p> <p>20 appropriate, we can say within two miles of the river or</p> <p>21 maybe it's a corridor that's five miles from the river.</p> <p>22 MR. GARDNER: The way it's written right now</p> <p>23 meets the public waters.</p> <p>24 MR. HUNSAKER: Right. That meets the public</p> <p>25 waters. We can define those areas that, if it's a</p> |
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| <p>1 (Mr. Wayne Hunsaker welcomed everyone to the</p> <p>2 hearing and an overview of the issue and a review of</p> <p>3 proposed rule was presented by Mr. Dick Gardner)</p> <p>4</p> <p>5 MR. GARDNER: We appreciate everybody coming.</p> <p>6 I'm very excited because this is by far the biggest</p> <p>7 turnout. We didn't have too many people turn out in</p> <p>8 Orofino so it's good to see you all here.</p> <p>9 My name is Dick Gardner and I'm the moderator</p> <p>10 for this negotiated rule-making workshop for the Idaho</p> <p>11 Outfitters and Guides Licensing Board. They are the</p> <p>12 governing agency for commercial outdoor recreation</p> <p>13 activity in Idaho.</p> <p>14 We're going to get input and suggestions on</p> <p>15 how these rules should be tailored or modified and hear</p> <p>16 your point of view.</p> <p>17 In some cases, I may ask if there are other</p> <p>18 people who have the same point of view. In an effort to</p> <p>19 save a little time, we can kind of do a polling of the</p> <p>20 group from time to time. You know how you'll go to</p> <p>21 formal hearings and you'll hear the same points made</p> <p>22 over and over and over again, we'll try to sort that out</p> <p>23 a little bit, if we can.</p> <p>24 So, Rainey --</p> <p>25 THE COURT REPORTER: If you would, please, if</p> | <p>1 highly intense hunting area, and you feel or we feel or</p> <p>2 everybody agrees that maybe there ought to be a mile</p> <p>3 corridor on either side of the river that should not be</p> <p>4 outfitted, you know --</p> <p>5 And maybe in some places like Ada County, it</p> <p>6 might be the whole county.</p> <p>7 So, that's the kind of information we need</p> <p>8 from the sportsman groups and the hunters that are</p> <p>9 actually out in those areas and give us biological and</p> <p>10 sociological reasons that we can defend in a court and</p> <p>11 then we will say no or in a limited --</p> <p>12 MR. GARDNER: I should say that we're not</p> <p>13 expecting like you're going to have the data in your hip</p> <p>14 pocket.</p> <p>15 MR. HUNSAKER: But over time -- we've got a</p> <p>16 year now to put this together. And we will be taking</p> <p>17 input and written input is welcome over that time to</p> <p>18 come up and develop that. Fish and Game is helping us</p> <p>19 to do that development.</p> <p>20 MR. GARDNER: Are you done, sir?</p> <p>21 A VOICE: Yes.</p> <p>22 MR. GARDNER: Okay.</p> <p>23 MR. CRAIG GAUDIO: I just want to --</p> <p>24 MR. GARDNER: Could you please state your</p> <p>25 name, too?</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 MR. CRAIG GAUDIO: Sure. Craig Gaudio. 2 So, anyway, when you're talking about outside 3 of the rivers, you're still talking about private land, 4 correct? 5 MR. HUNSAKER: Right. 6 MR. CRAIG GAUDIO: So, limited outfitted areas 7 would consist of what? 8 MR. HUNSAKER: It could be a piece of corridor 9 of land that is within a certain mileage of the river. 10 MR. CRAIG GAUDIO: But still private? 11 MR. HUNSAKER: Still private. 12 But we can limit outfitters, and we do this 13 currently with all of our big game and deer and elk and 14 whatever, we put sight boards and limits on the 15 outfitter to say: Here's what you can do in that area. 16 And if it's deemed that we will have limited 17 outfitting with no guiding and simply get access; 18 provide the decoys but not set them up; build a blind 19 but not call the ducks in... Those sorts of things are 20 what we're talking about. 21 MR. CRAIG GAUDIO: I was just at Beaver Dick 22 State Park. I know there's a private club there near a 23 private landowner. And it's all marked "No 24 Trespassing," the whole thing, but those very same signs 25 they have on their property, they have now started</p> | <p style="text-align: right;">Page 8</p> <p>1 its primary concern. That's why we're doing the 2 rulemaking so we can set limits and restrictions on 3 whatever we get or tell somebody no or whatever. 4 But the Board also can initiate requests and 5 request applications, say, for if we have an area that 6 we feel like we need to have some outfitting activity, 7 commercial activity going on. And we do that through 8 what we call a prospectus. 9 And typically what happens if we do that, we 10 do it typically with the federal agencies; the Forest 11 Service and the BLM, and we will follow their lead. 12 After they go through the NEPA process, we 13 would do that. 14 And then we would do it -- there would be a 15 coordinated invitation for applications. And typically 16 the limitations and restrictions are already in place. 17 With turkey and waterfowl, I don't think that 18 that's really going to be appropriate because, number 19 one, we're going to put limits and restrictions in place 20 on the rivers already. And we suspect that as that 21 moves forward, we're probably going to get some people 22 initiating applications and we can follow-up on it. 23 And then with the Forest Service and the 24 Bureau of Land Management -- it's probably more so for 25 turkey with the Forest Service and the BLM than maybe</p> |
| <p style="text-align: right;">Page 7</p> <p>1 putting around all the islands below the high watermark. 2 And they're all -- 3 A VOICE: That guy's out of California and 4 that is his property. 5 MR. CRAIG GAUDIO: Can he go on the river? 6 A VOICE: I understand it's private property. 7 My dad's house is right next to him. 8 MR. HOWARD: Where's Beaver Dick State Park? 9 MR. GARDNER: Just outside of Rexburg. 10 MR. HOWARD: I worked for the State parks for 11 10 years and that didn't jump out at me. It must be a 12 new one. 13 THE COURT REPORTER: I'm sorry, don't forget 14 about me. 15 MR. GARDNER: All right. Okay. Jake, I want 16 to ask you a question, if I may. 17 MR. HOWARD: Sure. 18 MR. GARDNER: I saw some quizzical looks when 19 I read the part of the rule that said the Board shall 20 not initiate hunting on public lands or waters. 21 And I think there was some curiosity about 22 what that means. 23 MR. HOWARD: What the Board -- you know, the 24 Board has the ability, through the Idaho Administrative 25 Procedures Act to respond on application. And that's</p> | <p style="text-align: right;">Page 9</p> <p>1 waterfowl. 2 When they go through the NEPA process, if they 3 determine, as an agency, that there's a need for some 4 sort of commercial activity in the forest, whatever it 5 might be, in this case maybe turkey hunting, they can go 6 through and do the NEPA analysis and then ask us to 7 participate. 8 If they do that, it would be inappropriate 9 first to put a rule into place that tells the Forest 10 Service that they can't follow their own planning 11 process. 12 So, that's what it's about in a nutshell. I 13 hope that makes sense, but we would not -- we would not 14 -- if this rule's in place, we would not initiate it. 15 It would happen in some other way. 16 MR. HUNSAKER: Typically the Forest Service 17 and BLM would come to us and say our planning procedures 18 have determined that we're going to have horseback 19 riding in this area and we want you to put a prospectus 20 together to get an outfitter to provide that service to 21 this part of the forest. 22 We don't think they're going to do that with 23 turkey and waterfowl, but what we're saying is we will 24 not initiate that ourselves through the Board. 25 MR. GARDNER: Okay. Who else? Sir?</p> |

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| <p>1 MR. GREG WEATHERBY: Can we start? This is</p> <p>2 our time.</p> <p>3 Well, one of the things that concerns me is</p> <p>4 where you --</p> <p>5 MR. HOWARD: State your name.</p> <p>6 MR. GREG WEATHERBY: Greg Weatherby.</p> <p>7 When you have private inholdings in, say,</p> <p>8 State parks or other park set-asides, I'd like to find a</p> <p>9 way that we could really look closely at that and say:</p> <p>10 No, you're not going to have doggone 10 duck blinds</p> <p>11 inside this park.</p> <p>12 And so I'd like to really have you guys take a</p> <p>13 really close look at, you know, here's a guy who's going</p> <p>14 to be guiding and when you have a -- when his land is</p> <p>15 completely surrounded by --</p> <p>16 MR. GARDNER: Is there a particular place</p> <p>17 you're thinking of where this might apply?</p> <p>18 MR. GREG WEATHERBY: One area that I -- we</p> <p>19 were going to make a park out of it down near Firth and</p> <p>20 we ended up not doing it as a State.</p> <p>21 But there isn't one particular area, but I'd</p> <p>22 like it to kind of cover the whole State and just be</p> <p>23 really careful about the way you issue permits there.</p> <p>24 MR. GARDNER: So, a concern about inholdings</p> <p>25 particularly --</p> | <p>1 MR. HOWARD: Yeah. Let me help you</p> <p>2 understand. We mentioned earlier that this -- we're</p> <p>3 talking about outfitting and not guiding. Guiding's</p> <p>4 going to be very limited to youth, the disabled and</p> <p>5 elderly.</p> <p>6 A landowner is basically the business entity.</p> <p>7 And so this rule is focused on providing public access.</p> <p>8 It's not focused at all on providing guided</p> <p>9 opportunities.</p> <p>10 In other words, there's not going to be</p> <p>11 somebody in the field with -- say, if you're out there</p> <p>12 with an outfitter and you're being outfitted, there's</p> <p>13 not going to be somebody in the field with you calling</p> <p>14 birds, hunting, doing that. You're going to be on your</p> <p>15 own. It's kind of like a drop camp if you've ever</p> <p>16 hunted big game.</p> <p>17 MR. GREG WEATHERBY: I would like to see,</p> <p>18 though, what are the requirements for this person to be</p> <p>19 an outfitter?</p> <p>20 MR. GARDNER: Okay.</p> <p>21 MR. HOWARD: It's currently in our rules. We</p> <p>22 do have specific things.</p> <p>23 MR. GREG WEATHERBY: So, they would have to</p> <p>24 meet all those requirements?</p> <p>25 MR. HOWARD: Yeah.</p> |
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| <p>1 MR. GREG WEATHERBY: Yeah.</p> <p>2 MR. GARDNER: -- in either State or Federal</p> <p>3 parks and I suppose county parks.</p> <p>4 MR. GREG WEATHERBY: Sure. And I'm kind of</p> <p>5 interested in what kind of training is required for</p> <p>6 landowners as guides.</p> <p>7 MR. GARDNER: Jake, you can answer that one.</p> <p>8 MR. HOWARD: They would have to go do -- we</p> <p>9 require a first aid training.</p> <p>10 And I guess we haven't really sorted anything</p> <p>11 out about hunting experience and all that with --</p> <p>12 Generally, with hunting what we do is require</p> <p>13 that -- I'm talking about landowners -- we require that</p> <p>14 a guide or somebody providing service in the field is</p> <p>15 familiar with the area that they're hunting in.</p> <p>16 Typically what we've done in the past is with</p> <p>17 big game hunting and most of the areas are quite remote.</p> <p>18 So, that would be the other consideration.</p> <p>19 We require that they be familiar with the</p> <p>20 equipment they use and things like that, but it's fairly</p> <p>21 general.</p> <p>22 MR. GREG WEATHERBY: I know that becoming a</p> <p>23 guide is a difficult task. And so I would -- I just</p> <p>24 don't want to see you handing out licenses to Joe-farmer</p> <p>25 out there: Hey, you're a guide now.</p> | <p>1 MR. GREG WEATHERBY: The last thing I have is</p> <p>2 just a concern. We hunt turkey around here. Some</p> <p>3 really nice areas. And we have some landowners that are</p> <p>4 very gracious to us, but we take care of things.</p> <p>5 And I can just see them slamming the door to</p> <p>6 us as the public because they want to hold that land for</p> <p>7 their clients.</p> <p>8 And, you know, when I follow the money, who's</p> <p>9 making money on this? When there's money at stake, it</p> <p>10 means that things are going to get shut down.</p> <p>11 I have a lot of friends that live in the east</p> <p>12 and this is exactly what happened.</p> <p>13 So, I do have a concern. I'd almost like to</p> <p>14 see the access where, look, you're going to hunt this</p> <p>15 land, you're going to guide on it, you have to open it</p> <p>16 to the public. That would be a tough sell. Thank you.</p> <p>17 MR. GARDNER: Thank you. Yes.</p> <p>18 MR. TRAVIS MITCHELL: My name's Travis</p> <p>19 Mitchell. I want to just follow-up with what he was</p> <p>20 saying.</p> <p>21 You explained that you're trying to go about</p> <p>22 this as an opportunity to open up land to the public,</p> <p>23 but I think you need to focus on what he's saying.</p> <p>24 My view and my opinion is that that's going to</p> <p>25 be exactly what doesn't happen in a lot of areas. There</p> |

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| <p>1 might be some land out there that's already under a 2 lease or this, that and the other, and they allow 3 limited access.</p> <p>4 But the dollar will win every time. There's 5 very few people that will say: You know what? I'm 6 setting the money aside because I believe that I'm going 7 to pay it forward because this guy let me hunt on this 8 land when I was a kid and I want to pay it forward. I 9 just don't see it happening.</p> <p>10 So, that's a really big concern to me because 11 this little group of guys right here that I'm sitting 12 by, we have a lot of contacts and we've done a lot of 13 things for the landowners to maintain a good rapport 14 with them so that we can hunt their land every year. 15 There's a lot of respect that goes into that and 16 appreciation.</p> <p>17 And I hate to see that be at risk of being 18 lost because an outfitter came in and the next thing you 19 know we got Idaho on the outdoor channel with 20 such-and-such -- Idaho outfitters duck and goose 21 hunting. And now we're not duck and goose hunting 22 anymore. We're watching it on TV. I don't want to do 23 that. That's not what it's about for me.</p> <p>24 The other thing that I wanted to ask you was 25 some clarification on that 3 percent. I can't remember</p> | <p>1 MR. HUNSAKER: Right. 3 percent spread out 2 across the entire State.</p> <p>3 MR. HOWARD: Excuse me. I think actually it's 4 in -- didn't we do it by Fish and Game region, Dick?</p> <p>5 MR. GARDNER: It's by region. If you want to 6 come up here, I can show you.</p> <p>7 MR. HOWARD: I think it's by region.</p> <p>8 MR. CRAIG GAUDIO: There's two zones now.</p> <p>9 MR. HUNSAKER: It will be whatever the -- 10 Your point's well taken. I think that we need 11 to make --</p> <p>12 MR. TRAVIS MITCHELL: If there's a 107 day 13 season every year, I know it's coming. It sounds like 14 it's 3 percent of that. That's 3.1 days; but, really, 15 that's not the case.</p> <p>16 MR. GARDNER: What region are we in here?</p> <p>17 MR. HOWARD: Region 6.</p> <p>18 MR. GARDNER: So, 3 percent of goose hunting 19 days would be 391 hunter days of duck hunting days 687.</p> <p>20 MR. TRAVIS MITCHELL: So, that means an 21 outfitter can have -- if that's 391 hunter days --</p> <p>22 MR. GARDNER: For all the outfitters.</p> <p>23 MR. HOWARD: That would be all the outfitters 24 combined.</p> <p>25 MR. TRAVIS MITCHELL: Let's say there's one</p> |
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| <p>1 exactly what it said, but there was only going to be 2 allowed 3 percent of -- 3 percent of the hunter days 3 were going to be allowed to outfitting. Is that 4 correct?</p> <p>5 MR. HUNSAKER: Something like that.</p> <p>6 MR. TRAVIS MITCHELL: Let me clarify what my 7 understanding of a hunter day is. If I go hunting 20 8 times in the year, that's 20 hunter days.</p> <p>9 MR. HOWARD: Right.</p> <p>10 MR. TRAVIS MITCHELL: If he's with me every 11 time, that's 40 hunter days.</p> <p>12 MR. HUNSAKER: Right.</p> <p>13 MR. TRAVIS MITCHELL: Correct?</p> <p>14 MR. HUNSAKER: Correct.</p> <p>15 MR. TRAVIS MITCHELL: So, let's say that we 16 have 10,000 people that go waterfowl hunting one day, 17 that's 10,000 hunter days.</p> <p>18 3 percent of that is 300 days.</p> <p>19 Does that mean that every outfitters --</p> <p>20 MR. HUNSAKER: Dual seasons.</p> <p>21 MR. TRAVIS MITCHELL: That's two seasons.</p> <p>22 MR. HUNSAKER: Yes.</p> <p>23 MR. TRAVIS MITCHELL: Because the season's 107 24 days. So, does that mean it's all-inclusive across the 25 State?</p> | <p>1 outfitter, he can take three guys every day of the 2 season.</p> <p>3 MR. HOWARD: If he gets all those user days.</p> <p>4 MR. TRAVIS MITCHELL: So, 3 percent sounds 5 nice, but I don't think it really is. I don't think 6 it's very limiting. Let me say it that way. It sounds 7 like, hey, these guys can only hunt once a week, but I 8 don't think that's the case.</p> <p>9 MR. HOWARD: We'll take a look at that.</p> <p>10 That's a good point.</p> <p>11 MR. GARDNER: And I should report, we'll 12 probably be modifying this rule because the data on 13 turkeys, we don't have turkey hunter days. We just have 14 the total number of licenses sold. So, for instance, 15 the sold number of turkey hunters, 3 percent is only 16 seven in Region 6.</p> <p>17 MR. TATE BROOKS: They don't sell too many 18 tags in this region.</p> <p>19 MR. GARDNER: Yeah, they don't sell too many 20 tags in this region.</p> <p>21 Yes, sir.</p> <p>22 MR. RON FARRIS: Yeah. Ron Farris.</p> <p>23 One of my concerns is the idea -- in our 24 particular region, we have a lot of Utah hunters and the 25 moment you open this hunting up to outfitters --</p> |

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| <p>1 And I've seen this happen in the wilderness.</p> <p>2 I've spent time on horses and mules in the back country</p> <p>3 of my own.</p> <p>4 These guys will come up; utilize the</p> <p>5 outfitter; learn the area; buy an Idaho tag, which is</p> <p>6 cheap; and they'll be here in our back pocket. The</p> <p>7 impact of that is huge. Pretty soon they know all the</p> <p>8 hot spots, the sweet spots.</p> <p>9 And then the Utahans, they're already up here</p> <p>10 ruining it in this area. And we're going to add to</p> <p>11 that. This is an additive problem.</p> <p>12 As a hunter and sportsman and a member of</p> <p>13 Ducks Unlimited, there's no return on investment for us</p> <p>14 as sportsmen. There's not one positive aspect of them</p> <p>15 guiding and outfitting in Idaho. None. Zero. You</p> <p>16 can't sell me on that. You can't tell me the quality,</p> <p>17 quantity or the access is going to increase for me as a</p> <p>18 hunter.</p> <p>19 And my concern, as a Ducks Unlimited member,</p> <p>20 and as a State representative for Ducks Unlimited, is</p> <p>21 this -- and I'm not here to represent DU because I can't</p> <p>22 do that officially, but I will tell you two of the</p> <p>23 biggest problems we've got in hunting is recruitment and</p> <p>24 retention.</p> <p>25 And the moment we affect access to our hunters</p> | <p>1 damn outfitters think they own the place.</p> <p>2 I about got in a fight the last time I went</p> <p>3 into the wilderness because the guy was an asshole.</p> <p>4 I've been hunting there 10 years and he's saying I'm</p> <p>5 trespassing on his hunting stuff.</p> <p>6 If that ain't going to happen in waterfowl, I</p> <p>7 call BS. That's going to happen.</p> <p>8 And the conflict between us and those</p> <p>9 outfitters is going to get bad because these people</p> <p>10 really do believe they own it. And I'm not here to</p> <p>11 promote this. I think this is the worst idea ever.</p> <p>12 The Moratorium is the best thing we can</p> <p>13 continue with. We've got to find a way to stop it and</p> <p>14 not add to it.</p> <p>15 MR. GARDNER: I've seen some nodding heads.</p> <p>16 Let me just ask: I think, correct me if I'm wrong, what</p> <p>17 your concern is is that outfitters represent increased</p> <p>18 competition that will crowd out existing non-outfitted</p> <p>19 hunters.</p> <p>20 MR. RON FARRIS: And the retention and --</p> <p>21 MR. GARDNER: How many people agree with that</p> <p>22 point of view? And we'll just do a count here.</p> <p>23 Let the record note there's 15 hands agreeing</p> <p>24 with that --</p> <p>25 MR. GREG WEATHERBY: Out of what percent?</p> |
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| <p>1 and we raise the cost -- I lived back east when I was in</p> <p>2 the Navy -- totally destroyed hunting. I couldn't hunt</p> <p>3 ever, not one day because there was no place to hunt</p> <p>4 because hunting clubs and the outfitters had taken up</p> <p>5 the entire damn State. And it became a rich man's</p> <p>6 sport.</p> <p>7 Now, I'm a common man. I'd like my sons to be</p> <p>8 able to hunt. My son's a guide. He's a licensed Idaho</p> <p>9 guide.</p> <p>10 But we're going to destroy this for our</p> <p>11 children. And if we continue down this path, I don't</p> <p>12 believe that hunters will have the voice that we</p> <p>13 currently have. It's diminishing so rapidly now. This</p> <p>14 is just one more stake in that coffin. And if we don't</p> <p>15 do something about this and stop this madness -- and</p> <p>16 this, to me, is just one incremental step towards the</p> <p>17 loss of hunting in Idaho -- it will become a rich man's</p> <p>18 sport.</p> <p>19 And we've got to consider all the</p> <p>20 stakeholders. If our kids don't grow up to be hunters</p> <p>21 and they play those stupid video games, we're going to</p> <p>22 lose this. And this is going to add to it, gentlemen.</p> <p>23 We've got to think about the future of hunting in Idaho.</p> <p>24 And an outfitting guide, I'm not against them,</p> <p>25 but, damn it, I've been in the back country and those</p> | <p>1 MR. CRAIG GAUDIO: And just think -- I lost my</p> <p>2 train of thought. Go ahead.</p> <p>3 MR. GARDNER: How about this gentleman in the</p> <p>4 Boise State --</p> <p>5 MR. JASON STEWART: Jason Stewart. I'd like</p> <p>6 to agree with the man in the black coat. I've been</p> <p>7 hunting waterfowl since I was 15. So, that's 25 years.</p> <p>8 And, just recently, I've seen more landowners</p> <p>9 going to trespass fees in the past four or five years.</p> <p>10 Fields that I've hunted since I was 15 and had</p> <p>11 a good rapport with the landowners and that land's</p> <p>12 changed holdings, either to sons or different owners,</p> <p>13 and that ground's not accessible.</p> <p>14 One field in particular is being leased to a</p> <p>15 Utah guide that came up. The spot was shared to him by</p> <p>16 somebody local and now that field is leased by more</p> <p>17 money than I could afford to take my boys on. And I</p> <p>18 can't hunt it.</p> <p>19 On your little e-mail, it said the Moratorium</p> <p>20 was put in place for the concern over the potential of</p> <p>21 loss of public access to private land. Okay?</p> <p>22 If that Moratorium isn't kept in place, the</p> <p>23 public is going to have even less access to that public</p> <p>24 and private land.</p> <p>25 Now, you said you're going to limit the</p> |

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| <p>1 private landowners alongside the rivers where there's 2 harder pressure, correct? You're going to limit that. 3 How are you going to prevent that landowner 4 from suing you and not allowing hunting on that ground? 5 How are -- because this is over a lawsuit. 6 MR. HOWARD: That's why we're putting the rule 7 in place. 8 MR. JASON STEWART: This deals over money and 9 the lawsuit, correct? 10 MR. HOWARD: Yeah. 11 MR. JASON STEWART: Those two things. Why 12 don't you just keep the Moratorium in place? If you can 13 have a rule alongside the river, just have a rule over 14 the whole State. 15 MR. CRAIG GAUDIO: I think the concern is the 16 Moratorium is not legally defensible. 17 MR. HOWARD: Exactly. 18 MR. CRAIG GAUDIO: Are you guys trying to 19 figure out how to make it legally defensible? 20 MR. GARDNER: Right. 21 MR. HOWARD: Yes. 22 MR. GARDNER: That's the purpose of what this 23 whole thing is about. 24 MR. HOWARD: We're trying to figure out how to 25 put restrictions in place.</p> | <p>1 collectively as Idahoans, don't want this to happen. 2 Now, private landowners, we have the Idaho 3 Administrative Procedures Act in dealing with regulating 4 outfitting and it's kind of like Planning and Zoning. 5 If somebody submits an application, and 6 particularly if they're a private landowner, and we deny 7 it, we better have a pretty good damn reason why we're 8 denying it. And there may be some. I think there are. 9 But that's what we're looking for. We're 10 looking for the sportsmen and the Fish and Game 11 Department to help us provide some rationale where it's 12 appropriate and where it's not. Where it needs to be 13 "no way in hell," where it's "it can be limited" and 14 where "it can be opened up." Okay? 15 MR. GARDNER: Let's hear from the gentleman 16 back in the corner and then the guy in the green vest. 17 MR. RICK MARTIN: I'm Rick Martin. I'm from 18 Shelley. And I was one of the board of directors of the 19 Idaho Waterfowl Association for a year and a very active 20 member of it. 21 I sat in, by teleconference, on several of the 22 waterfowl/turkey advisory group meetings. And I read 23 in-depth all of the minutes and comments and stuff from 24 the waterfowl/turkey advisory group meetings. 25 You guys are shorthanded because you don't</p> |
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| <p>1 MR. CRAIG GAUDIO: You want to scratch the 2 Moratorium and you want to figure out how to make it -- 3 MR. HOWARD: We need to put rules in place 4 that are appropriate. There may be places in the State 5 that it would be appropriate to allow some activity. 6 There's a whole bunch of places -- you know, 7 I'm from Aberdeen. I know a lot about hunting over 8 here. So, there are places in Idaho -- and I also live 9 down in Boise and I'm familiar with the Snake River 10 south of Boise along Canyon County. 11 And there are places down there that there 12 should not be any commercial activity at all, in my 13 mind. 14 What we're looking for is how to substantiate 15 that in such a way from, either a biological issue -- 16 which seems to be somewhat fleeting. We've been dealing 17 with Fish and Game -- or some resource management issues 18 recognizing crowding. 19 Wayne and I were talking driving in this 20 morning about, just between Blackfoot and Idaho Falls, 21 the amount of residential development that's occurred 22 along the river. 23 Those are all justifiable reasons. What we 24 need to do is wrap our arms around it and put it into a 25 rule so it can be legally enforced where it is that we,</p> | <p>1 have all the information at hand that I've seen and I 2 have to take exception to some of your opening comments. 3 MR. GARDNER: Okay. 4 MR. RICK MARTIN: Because, number one, the 5 private land survey was not initiated by the advisory 6 group of waterfowl/turkey. 7 If you go back to the Outfitters and Guides 8 Licensing Board minutes, that came out of the Board; not 9 from the advisory group. 10 The advisory group suggested that a survey be 11 done of all sportsmen in Idaho. That was never done. 12 It was only done by selective individuals out of the 13 Farm Bureau database. And it was a skewed survey. 14 And I know you helped put it together and you 15 took offense to that. I saw your e-mails. That survey 16 did not target waterfowl and turkey. And you shake your 17 head no, Mr. Howard, but it was skewed. It did not 18 target. It was open. It was open-ended. 19 And very little of waterfowl hunting was 20 mentioned in there or turkey. 21 There was a lot of stuff that came up on big 22 game hunting and where the property was at was within a 23 certain distance of river, agricultural. 24 Agricultural land is dependent each year on 25 what's produced by the private landowner.</p> |

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| <p>1 MR. GARDNER: I'm just putting up a map. This</p> <p>2 is where we were surveying.</p> <p>3 MR. RICK MARTIN: One year it may be in corn.</p> <p>4 The next year it may be in hay. So, that private land</p> <p>5 that they're showing is skewed based on the Farm Bureau</p> <p>6 data.</p> <p>7 I had to get the information through a public</p> <p>8 foyer request from Mr. Howard and the Outfitters and</p> <p>9 Guides Licensing Board and Fish and Game to see what the</p> <p>10 raw data showed.</p> <p>11 The raw data did not show exactly what was in</p> <p>12 the report, plain and simple. Okay?</p> <p>13 You guys are right on. The Moratorium was</p> <p>14 fought tooth and nail by a sportsmen's group over the</p> <p>15 year-and-a-half to two years that they met to keep that</p> <p>16 Moratorium in place using the information you guys gave.</p> <p>17 But also if you go to the Outfitters and</p> <p>18 Guides Licensing Board's regulations to allow an</p> <p>19 activity such as this commercial activity, it's supposed</p> <p>20 to be based on a needs analysis.</p> <p>21 Nowhere, to date -- and it's been asked for</p> <p>22 over and over again -- has that needs analysis been</p> <p>23 shown to the public where there have been people asking</p> <p>24 for waterfowl or turkey licenses to the Board.</p> <p>25 We've asked and asked for that information.</p> | <p>1 They have violated their own rules because</p> <p>2 right now there's only four licensed outfitters and</p> <p>3 guides in Idaho and they're all in East Idaho. Not a</p> <p>4 one of them, as of the end of 2011, through the</p> <p>5 Outfitters and Guides Licensing Board, provided any data</p> <p>6 or harvest information to them and for the Fish and</p> <p>7 Game.</p> <p>8 How can we trust the Outfitters and Guides</p> <p>9 Licensing Board to enforce any further outfitters in</p> <p>10 guiding if they can't enforce only four currently in the</p> <p>11 State?</p> <p>12 Besides their enforcement, I know of at least</p> <p>13 three individuals guiding in Bingham County right now.</p> <p>14 A VOICE: Unlicensed.</p> <p>15 MR. RICK MARTIN: Unlicensed. At least three.</p> <p>16 And I turned one in a number of years ago and</p> <p>17 nothing's ever been done about it.</p> <p>18 As far as biological and social issues, that</p> <p>19 advisory group, the sportsmen's groups and the other</p> <p>20 private landowners provided numerous amounts of</p> <p>21 biological and social information to the Outfitters and</p> <p>22 Guides Licensing Board.</p> <p>23 But because the sportsmen's groups took a hard</p> <p>24 stance in the end and said no to the guiding issue, that</p> <p>25 the Moratorium should stay in place, all that input and</p> |
| Page 27 | Page 29 |
| <p>1 It's not been provided and nowhere has that information</p> <p>2 been given by anybody from the Board.</p> <p>3 So, there's one aspect you guys need to be</p> <p>4 aware of.</p> <p>5 Number two, I know that the Outfitters and</p> <p>6 Guides Licensing Board's legal attorney said it was not</p> <p>7 legally defensible.</p> <p>8 But there were attorneys that came out on the</p> <p>9 other side that said, yes, it was because we're not</p> <p>10 following your current policies for a needs analysis.</p> <p>11 Would you like to speak up so we can hear what</p> <p>12 you said, Mr. Howard?</p> <p>13 MR. HOWARD: I didn't say anything.</p> <p>14 MR. RICK MARTIN: Yeah, you did.</p> <p>15 MR. HOWARD: Why don't you just stick to your</p> <p>16 point, buddy.</p> <p>17 MR. RICK MARTIN: I am.</p> <p>18 MR. HOWARD: Good.</p> <p>19 MR. RICK MARTIN: Anyhow, you can go online</p> <p>20 and find their information in their own manuals.</p> <p>21 They also require, with the MOU and with the</p> <p>22 Fish and Game, to report annually the harvest and user</p> <p>23 days that they have for waterfowl and turkey. That's</p> <p>24 never been recorded. We've asked and asked for that</p> <p>25 information. We asked this Advisory Board for that.</p> | <p>1 data that was collected has been ignored. There have</p> <p>2 been volumes of input on this issue. And, to date, it's</p> <p>3 been ignored.</p> <p>4 ISCAP, that represents numerous sportsmen's</p> <p>5 groups in this State, over 22,000 members strong, has</p> <p>6 come out with a letter strongly opposing this proposal</p> <p>7 and they've ignored that input. To date, they have</p> <p>8 ignored every bit of sportsmen's input that has been</p> <p>9 done. We can sit here and say no, no, no and give the</p> <p>10 best information we can and they still, as an</p> <p>11 independent agency in the State of Idaho, can do as they</p> <p>12 want. They do not have to justify what they're doing.</p> <p>13 All they have to do is get it through the Legislature.</p> <p>14 And Fish and Game, yes, they're required to</p> <p>15 get input. But Fish and Game, you would think since</p> <p>16 they control wildlife in the State, would be a co-signer</p> <p>17 on this.</p> <p>18 Outfitters and Guides Board does not have to</p> <p>19 go with what Fish and Game recommends on wildlife. They</p> <p>20 only have to take their input. They don't have to agree</p> <p>21 it. They can do their own thing.</p> <p>22 I'd still like to know how many requests the</p> <p>23 Outfitters and Guides Board has had from the public to</p> <p>24 be a guide or an outfitter in this State because they</p> <p>25 say that they've had an increase in number of requests</p> |

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| <p>1 to do it. How many? Who? Where? That information has 2 been requested for a minimum of four years, that I know 3 of, and the Turkey Association in Idaho asked for it 4 before that.</p> <p>5 So, you guys are being shorthanded with a lot 6 of information that you haven't seen. There's been a 7 lot of work done by numerous groups and individuals and, 8 I'll concede, a lot of private landowners.</p> <p>9 But there's a lot of information that's going 10 under the table that could have solved this a long time 11 ago, but because the Outfitters and Guides Licensing 12 Board was -- and I can go to some minutes and quote Mr. 13 Howard -- that there will be guiding in Idaho, but 14 they're going to determine where and when.</p> <p>15 Now, with an attitude like that from a head of 16 a State agency that we, the public, should have some say 17 into, it means, to me, that they're not listening to us, 18 the public.</p> <p>19 And I can pull up the minutes where that's 20 quoted. It was in the Fish and Game Commission meeting 21 back in 2009, I think it was. So, his mind was made up 22 a long time ago. Now they're just going to tell us how 23 they're going to do it without listening to what we're 24 going to say.</p> <p>25 MR. GREG WEATHERBY: You seem to be pretty</p> | <p>1 it's totally against the sportsmen.</p> <p>2 I spent 15 years hunting on some private 3 property and I got to know the landowner very well. And 4 we're talking -- and it was multiple landowners. We're 5 talking 100,000 acres worth of big game hunting.</p> <p>6 All the sudden, out of the blue, somebody 7 comes in and flashes their checkbook and says I want to 8 pay you a "No Trespassing" fee. No trespass the whole 9 thing. Don't let anybody in here but me and my clients. 10 And he wrote them a check. I was out. Just that quick.</p> <p>11 Every year I was able. Because I respected 12 that property, I knew the landowners, you know, I was 13 respectful with them, I treated their property 14 correctly. And if people were in there cutting fences 15 and doing things they shouldn't have been doing, we 16 would run them out. We were trying to respect the 17 landowner.</p> <p>18 I spent the last -- I don't know -- 15 years 19 managing farms, managing property, managing people that 20 can come on and off the property. That's a different 21 subject. I have so many things going through my head.</p> <p>22 It's really frustrating. We shot elk and deer 23 every year and I'd go shoot an elk and a deer and put it 24 in my freezer. It's fun for the sportsman. But my 25 family eats that meat. And I know lots of people that</p> |
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| <p>1 studied on this. Who benefits?</p> <p>2 MR. RICK MARTIN: Who benefits?</p> <p>3 A VOICE: The Board.</p> <p>4 MR. RICK MARTIN: The Board.</p> <p>5 MR. GREG WEATHERBY: Why?</p> <p>6 MR. RICK MARTIN: And also those that end up 7 getting a license because of financial, economics, like 8 he said, being able to get the money.</p> <p>9 A VOICE: It's the money.</p> <p>10 MR. GREG WEATHERBY: Who are the four license 11 holders?</p> <p>12 MR. GARDNER: He's not going to answer 13 questions.</p> <p>14 Are you done with your --</p> <p>15 MR. RICK MARTIN: I'll tell you who the four 16 outfitters are in the State of Idaho. Teton Valley 17 Lodge, Blackhawk Outfitters, Henry's Fork Outfitters. 18 And I forgot the fourth one -- Three Rivers Ranches.</p> <p>19 MR. GARDNER: Okay. Thank you for your input. 20 The gentleman in the green vest.</p> <p>21 MR. SPENCER PANCHERI: Spencer Pancheri. 22 There's a lot of different topics on this that need to 23 have key points brought up, but I think one of the 24 largest is this is a revenue game. That's all it is is 25 a revenue game for whoever benefits, the outfitters; but</p> | <p>1 that public game -- let me -- "public" game; not "money 2 making" game -- "public" game, they put that in their 3 freezer and they eat it. That's part of what sustains 4 them through the wintertime.</p> <p>5 As soon as this trespassing fee thing went 6 through and the guy flashed a little bit of money, I've 7 shot one elk in five years. One cow elk in five years. 8 And we were successful every year prior to that. Okay?</p> <p>9 I spent enough money this year driving around 10 looking for elk, now that I don't have that property to 11 hunt on, I could have bought a half a beef easy. I 12 should have just went and bought a half a beef and been 13 done with it and put it in any freezer. Okay?</p> <p>14 A VOICE: And you feel that it's going to be 15 the same way in waterfowl?</p> <p>16 MR. SPENCER PANCHERI: No matter what you do, 17 it's going to be the same way.</p> <p>18 There's a canyon that we went up that's public 19 property that all the sudden there's "No Trespassing" 20 signs all over the place. It's public land. You can't 21 no trespass public land.</p> <p>22 The outfitter was bluffing his way into 23 keeping people out. That's all it was. He had no legal 24 right. And when he got called on it, he got it pulled 25 down, except the next year they were back there again</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 until they got caught again and then he pulled them 2 down. He's bluffing his way in keeping people out of 3 his money-maker, is what he's doing. 4 So, I mean, you take all these things -- and I 5 don't know how many instances I can go through, whether 6 you're talking the South Fork and commercial fishermen 7 on the South Fork or guided big game hunts, it doesn't 8 matter, every time I've had a run-in with an outfitter, 9 it's been negative. It has not been positive. 10 When you turn it into a revenue game, when you 11 turn it into a money game, all you're doing is pricing 12 the general public right out of it. 13 And you're going to do the same thing to the 14 waterfowl as we have done to fish, to every other thing 15 by doing this. 16 I mean, there's a reason that they haven't 17 allowed this to begin with, that they haven't done this. 18 From a land manager or landowner aspect -- 19 We had a guy that come in that we knew from 20 Utah that -- he was a friend and we let him come in and 21 hunt some ducks on a piece of property. He went back to 22 Utah with video. We didn't know he was taking video. 23 He went back to Utah with video and all his buddies saw 24 this video and how great the hunting was in Idaho. 25 I ran five Utah rigs out of that field in four</p> | <p style="text-align: right;">Page 36</p> <p>1 MR. HOWARD: Right. 2 MR. GARDNER: Jake, do you want to answer 3 that? 4 MR. HOWARD: That's right. It would be -- 5 there would be specific areas identified. 6 MR. TATE BROOKS: So, you could have one? You 7 could have four? 8 MR. HOWARD: We probably would allow one. We 9 pretty much keep outfitters pretty much in unique 10 operating areas. 11 The four outfitters that you're -- let me 12 answer your earlier question. 13 The four outfitters that are currently 14 licensed, actually, two of them have fairly substantial 15 areas. The other two are fairly limited. 16 But in order to reduce their areas, again, 17 it's like going to Planning and Zoning. We have to go 18 through a hearing process to make a determination that 19 their area needs to be different than what it is now. 20 And we have to justify why. And there could be a number 21 of different reasons. 22 But once we make the decision and the decision 23 is perceived as being adverse by the outfitter, in this 24 particular instance, they have the right to appeal it to 25 District Court.</p> |
| <p style="text-align: right;">Page 35</p> <p>1 weeks that did not have permission, didn't ask anybody, 2 didn't know where they were at, didn't know anything 3 because one Utah guy took video and took that and showed 4 them. And they've ruined their hunting down there, so 5 now they have to come up here. 6 I think I've hit all of my points so far. 7 MR. TATE BROOKS: Tate Brooks. Two of these 8 licensed outfitters that were grandfathered in, I'm very 9 familiar with. 10 The areas, the territories that they're 11 restricted to hunt are actually quite large. 12 MR. GARDNER: Waterfowl. 13 MR. TATE BROOKS: Yeah, for waterfowl. 14 The areas -- basically if you were to allow 15 it, would those areas stay the same size as those other 16 two areas are now? One can guide Palisades and the 17 South Fork. One can guide in Henry's and Ashton and 18 down the North Fork a little ways. Those are pretty big 19 areas. 20 Basically my question would be another similar 21 size of area would be from, say, Lorenzo to Shelley, 22 would you have one outfitter in there or one or two? Is 23 there -- 24 MR. GARDNER: I think it would be connected to 25 specific parcels of land, right?</p> | <p style="text-align: right;">Page 37</p> <p>1 And we have to be able to -- again, we have to 2 justify why that is. 3 And, so, again, we're looking for biological 4 reasons or clearly substantiated sociological reasons 5 why we would do something like that. 6 MR. GARDNER: So, Jake, I'm hearing you say 7 it's easier to be restrictive going forward than it is 8 going backwards. 9 MR. HOWARD: Yes. Bingo. Bingo. 10 MR. TATE BROOKS: You referred to, like, the 11 Planning and Zoning. Say you had a license to a certain 12 area, could you include a private piece of ground 13 outside of that area as part of your -- 14 MR. HOWARD: Well, outfitters are licensed. 15 And you can go on to our web site. We have the 16 outfitters operating areas. 17 And typically what happens is outfitters are 18 licensed on public land exclusive to that public land. 19 And they're required to have a specific authorization 20 for private land. 21 So, there's a couple instances I can think of 22 where we have one outfitter that's licensed on a big 23 chunk of Forest Service land and in the middle of it, 24 there's another outfitter that has a private ranch that 25 he operates on. So, we have that kind of stuff.</p> |

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| <p>1 But the outfitting, there has to be a land 2 manager's authorization for every land that they operate 3 on. Okay?</p> <p>4 Now, we probably have some slipping through 5 the cracks. We have, I think, around 3,000 operating 6 areas and there may be some out there where we don't 7 know about it. It's entirely possible.</p> <p>8 If we have somebody -- this fellow over here's 9 talking about somebody who is operating in a private 10 area, private lands, if he's not licensed in there, he's 11 technically illegal.</p> <p>12 And you can do one of two things. Illegal, 13 unlicensed outfitting in Idaho is a criminal activity. 14 It can be reported to Idaho Fish and Game Department. 15 Law enforcement. It can be reported to a local Sheriff 16 and they can investigate it. Or it can be reported to 17 the Board and we can initiate that. Proving it is the 18 difficult part. Okay?</p> <p>19 MR. CRAIG GAUDIO: You mentioned --</p> <p>20 MR. GARDNER: Let's get the gentleman in the 21 red here.</p> <p>22 MR. BEN PANCHERI: I have a couple of 23 questions and then I have a couple of points to make and 24 I'll try and be as quick as I can.</p> <p>25 First of all, I might offend some people in</p> | <p>1 how we approach these people.</p> <p>2 So far what I've heard, I'm honestly going to 3 say, you know, you guys are trying to be as unbiased as 4 possible. There's probably a lot of people in here that 5 don't believe that.</p> <p>6 MR. HOWARD: Yeah.</p> <p>7 MR. BEN PANCHERI: And I hope I'm right. I'm 8 going out on a limb saying that and I do hope I'm right. 9 I hope you guys are being unbiased. That's why I say we 10 need to be careful how we do it. That's one point I do 11 want to make.</p> <p>12 I'm the type of guy that -- waterfowl around 13 here is competitive and I'm probably one of the most 14 competitive. I'm the type of guy that if I pull into a 15 field and somebody else has got permission there and 16 they were there before me, I'm going to back down and 17 leave. I'm going to say, hey, guys, sorry, you beat me 18 here. Fair game.</p> <p>19 I've seen fights over this stuff, like, 20 literally fights. I mean --</p> <p>21 I guess my opinion on the whole deal is I have 22 to agree with what's been said so far.</p> <p>23 First of all, the only thing I'm going to say 24 about Utah is this: I can't blame those guys for 25 wanting to come up here and hunt, some of them anyway,</p> |
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| <p>1 this room by saying this, but I'm going to anyway. It 2 seems to be a habit of mine lately.</p> <p>3 The one thing that I do want to ask is: In 4 1989 when this was put in place, if I understand this 5 correctly, you know, it was off of Fish and Game data 6 and the advice of a few groups, per se or whatever, and 7 you guys took everybody's knowledge and put this in 8 place the way it is now, correct?</p> <p>9 MR. HOWARD: Right. Uh-huh.</p> <p>10 MR. BEN PANCHERI: First of all, I appreciate 11 that. Sometimes I kind of feel like we go about this 12 wrong. And this is where I'm going to try not to offend 13 people because I know that people are passionate about 14 it and I'm extremely passionate about it and it's 15 sometimes hard not to get carried away.</p> <p>16 First of all, I really do appreciate what's 17 been done here as it is now because that's what's kept 18 us doing what we're doing and doing what we love. So, 19 for that, I guess, thank you. I want to make that point 20 to the people sitting in this room.</p> <p>21 I agree with, basically, everything you guys 22 are saying.</p> <p>23 But, on the other hand, the rules that are in 24 place now are because of this Board. That's where they 25 came from. We've got to be careful how we go about it,</p> | <p>1 as long as they go about it right, because they don't 2 have a place to hunt.</p> <p>3 But through my friends and family that I have 4 in Utah, the reason they don't have a place to hunt, in 5 my opinion, is because of things like the clubs and so 6 on and so forth.</p> <p>7 I was an insurance salesman for my previous 8 job. I ended up going down by Tremonton and tried to 9 sell some farm insurance.</p> <p>10 While my boss and I were down there, we ended 11 up asking some guys -- you know, these landowners if we 12 could hunt there, because there was a lot of waterfowl 13 in the area.</p> <p>14 I cannot tell you how much ground we covered 15 and how many landowners we asked. All that ground was 16 sucked up by hunting clubs with pretty extreme club 17 fees.</p> <p>18 So, I do agree with the fact that it becomes a 19 money game. I'd like to see everybody get along. I 20 really would. I can't blame an outfitter or a guide for 21 wanting to make a living, especially with the way things 22 are today. I, myself, is in between jobs right now. I 23 know what it's like. You know, I can't blame those guys 24 for that.</p> <p>25 What I don't want to see is I don't want see</p> |

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1 this be the first step in what I call the wildfire.
 2 That's what my friends in Utah call it. Once it
 3 started, once outfitters and guides or clubs gained a
 4 little bit of that control, from then on they pushed and
 5 pushed and pushed and it never stopped until pretty
 6 quick, like a bunch of these people in here have said,
 7 the average Joe was out. It becomes a money game. And
 8 I do agree with the fact that, in the end, the dollar
 9 wins. I am pretty stern on that.

10 Like my brother and a few other people in
 11 here, I've had instances myself where I've hunted
 12 property a long time and somebody offered a trespass
 13 fee, you know, the friendship you thought you had
 14 long-standing, 15 years -- I'm 28 years old. I've been
 15 hunting this place ever since I was 12, ever since I was
 16 old enough to hunt waterfowl. The friendship and the
 17 connection you thought you had was gone because of the
 18 dollar. And that's fact. There's no way to stop that.
 19 The dollar will win. I mean, it's no different than
 20 government or anything else.

21 But the last point I guess I want to make is
 22 just to the guys in this room. And I'm really not
 23 trying to be a jerk. I just want to say I don't want to
 24 this deal turn into the presidential election where it's
 25 just who can knock who and who's going to come out on

1 I really just want to take a much quicker
 2 approach and kind of voice concerns, especially for
 3 turkey hunting.

4 A lot of what we're talking about has to do
 5 with waterfowl and that's obviously significant.

6 But I think if you guys want to see this
 7 impact in a negative way, these rules that you fellows
 8 are talking about, I think it will hurt turkey hunting
 9 even more than it will hurt waterfowl hunting.

10 When I've hunted in Northern Idaho -- because
 11 there's not a lot here. There's some turkeys in the
 12 Preston area, you know, and there's some up our way
 13 towards Rexburg. There are few turkeys. They're permit
 14 birds and that's fine because we just don't have a lot.

15 But, boy, you go anywhere up in Northern
 16 Idaho, Orofino, on and on and on, the public land is
 17 tough to get on to. There's not a lot of access and the
 18 outfitting is going to, I think, squish that even more.

19 And I've also hunted in South Dakota in the
 20 Black Hills area where there is a lot of public land.
 21 And that's a fun, neat place to go and --

22 But I've also hunted in the very eastern part
 23 of Wyoming that kind of connects to the Black Hills
 24 there. And, boy, if you want to see a place that's been
 25 swallowed up by outfitters, go there.

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1 top, who can dig up more crap on the other side.

2 I really would like to see everybody get
 3 along. Express your honest opinion and that's fine.
 4 Let's just -- let's be careful how we do it.

5 And, as I previously stated, I hunt a lot. I
 6 mean, I've done a lot of waterfowl hunting, especially
 7 in the last five years; both on public waters, on
 8 private land that I've gotten permission on.

9 And it's the same thing -- as I said, I know
 10 quite a few of these gentlemen sitting next to me. It's
 11 the same for all of us. And I do see this whole
 12 situation, I guess, as a risk of that severely
 13 diminishing the future.

14 And, so, I guess to end it, that is my honest
 15 concern. I think there is solutions, but I guess as far
 16 as I stand on it right now, it's -- I would like to see
 17 if -- if it's about the being -- I forget how you guys
 18 worded it -- you know, defensible in court, I would like
 19 to see that happen, but I would also like to see most of
 20 the stuff that's in place now stay as it is.

21 MR. GARDNER: Thank you. I appreciate your
 22 effort.

23 Go ahead.

24 MR. REED HENDRICKS: My name's Reed Hendricks.
 25 I'm from the Rexburg area.

1 You see sign after sign after sign "No
 2 Hunting" and you kind of go check with the landowners
 3 and it's always -- there's always leases. It's just
 4 gone to the public person.

5 And you go to Northern Idaho where the primary
 6 part of our turkey hunting is available, and, man, if we
 7 turn this over to outfitters, boy, I'm telling you,
 8 we're going to see much less places to hunt.

9 MR. GARDNER: You saw the list of water
 10 stretches on the waterfowl side. We haven't identified
 11 any areas where to either exclude outfitting or only
 12 allow limited outfitting on the turkey side.

13 Can you see a way a rule or -- are there some
 14 particular areas that ought to be --

15 MR. REED HENDRICKS: I can't give you a very
 16 -- I can't give an opinion based on biology, but I can
 17 say to you that I can't think of single place that I've
 18 hunted turkeys in the State of Idaho that I recommend be
 19 open for outfitters. I, honestly, can't see anyplace.

20 The hunting pressure is intense. And, you
 21 know, you can get one or two turkeys. You can't get it.

22 I don't know what the limit is on ducks for
 23 each time you go out.

24 You can get one or two turkeys and the hunting
 25 pressure is intense and thick and hard. You see guys

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|---|---|
| <p style="text-align: right;">Page 46</p> <p>1 all over the place and you work your tush off to get the 2 connections with farmers and ranchers and landowners. 3 But, anyway, I see your point and you're 4 looking for some biological evidence, if you can. I 5 wish I could be more accurate. 6 MR. BEN PANCHERI: I'd like to add to that 7 real quick just because I don't want to forget the 8 turkey thing either. I'm like you. I can't support it 9 with fact. 10 But one thing I was going to say as far as 11 outfitting on turkeys is, as far as this valley is 12 concerned in Southeast Idaho -- 13 I mean, I've spent my whole entire life every 14 minute that I possibly can outdoors. I mean, whether 15 it's fishing, hunting, you know, I'm constantly on the 16 South Fork, constantly on the North Fork. 17 One thing I will say about the turkey thing 18 is, in my own honest opinion -- I cover a lot of ground, 19 public and private every year, and I don't see enough 20 turkeys around here to justify -- you know, like I said, 21 technically can I support that? No. It is an opinion. 22 When I'm fishing on the South Fork and I see a 23 turkey fly across the river, I think it's awesome. I 24 mean, and I personally -- I've wanted to shoot one. 25 I've personally not hunted turkey because I don't think</p> | <p style="text-align: right;">Page 48</p> <p>1 Forest Service to a determination whether -- 2 MR. TATE BROOKS: But if they did jump through 3 the hoops? 4 MR. HOWARD: Let me finish. 5 It's very public. When they go through the 6 process, it's a very public process. And there's a 7 number of different considerations that are taken into 8 play. 9 And, as a matter of fact, we have a memorandum 10 of understanding with the Forest Service that, not only 11 requires that they go through NEPA, that they also 12 contact the Idaho Department of Fish and Game to 13 determine specifically if there's any wildlife resource 14 issues. 15 And, so, one of the things that is an example, 16 we have been concerned about allowing outfitters to 17 accommodate trapping wolves in Northern Idaho. There's 18 an article in the Lewiston paper that has, basically, 19 told -- it was about two weeks ago -- but it talks about 20 the Forest Service going through the NEPA process; and 21 the NEPA process, because they don't have enough time or 22 staff to follow it, they, basically, have just shut the 23 whole thing down. Okay? 24 That whole concept is a very, very 25 comprehensive analysis or review before there would ever</p> |
| <p style="text-align: right;">Page 47</p> <p>1 there's enough of them around. I'm the type of guy who 2 would actually sacrifice -- I would actually rather not 3 hunt turkeys right now to see numbers grow. 4 MR. GARDNER: So, your opinion of the biology 5 is that there's not enough of the resource. 6 MR. BEN PANCHERI: Correct. And as far as 7 this meeting is concerned, I guess I kind of agree with 8 this gentleman over here that, as far as outfitting or 9 guiding, whatever -- however you want to look at it, the 10 turkey population, to me, is not -- it's just not there. 11 I mean, I just don't see it as being a good option for 12 anybody at this point. 13 MR. TATE BROOKS: Will turkey hunting be 14 allowed on public ground in Northern Idaho? 15 MR. HOWARD: No. 16 MR. HUNSAKER: Not at this time. Unless the 17 Forest Service comes to us with a specific proposal and 18 request that we put an outfitter on public land, there 19 will not be an outfitter. 20 MR. TATE BROOKS: But if somebody comes in and 21 applies and does all the steps that are needed, they 22 would be allowed to hunt or guide on public ground? 23 MR. HOWARD: Well, you've got to realize NEPA, 24 the National Environmental Policy Act, is a very 25 comprehensive process that needs to be employed by the</p> | <p style="text-align: right;">Page 49</p> <p>1 be a decision made to do what you're asking about. 2 So, we can sit here and tell you what the rule 3 says or what the draft rule says and what's likely to 4 happen. What actually happens with the Forest Service 5 five years from now, who knows? 6 MR. GARDNER: This gentleman back here has 7 been very patient. 8 MR. KENT CLARK: Kent Clark. I'm from Menan. 9 I've hunted waterfowl for 45 years. And something 10 happened here a few years ago, and I don't know if it 11 was global warming or what, but our flyaway here is -- I 12 would guess is probably 30 to 35 percent of what it was. 13 The birds aren't coming through. 14 I used to take the week of Thanksgiving off 15 every year and hunt nothing but geese all week. There 16 were geese everywhere. That's not the case anymore. 17 The ducks, the same way, right now in my 18 country there's hardly any ducks at all. 19 And I don't think there's any reason to outfit 20 and guide this if there isn't any product to offer to 21 start with. 22 On turkeys, I've hunted a lot of turkeys here. 23 I've been fortunate enough and brought them in. As a 24 matter of fact, I was kind of instrumental in getting 25 some of the turkeys here.</p> |

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1 MR. REED HENDRICKS: I want to touch you for a
2 minute. Hold on. Rub some of that off.

3 MR. KENT CLARK: You know, the turkey thing
4 has gotten to where they've almost become pets to some
5 of the people who have them on their places. I've asked
6 them and they say: You can't shoot my turkeys. They're
7 mine. They've actually told me that.

8 And I says, wait a minute, as sportsmen, we
9 brought those turkeys down from North Idaho.

10 But where this is strictly a controlled hunt,
11 there's no room, no room for outfitters in Idaho. With
12 the birds we have, we're limited in our opportunities as
13 it is. So, to bring outfitting and guiding for turkeys
14 here is just -- to me, is just totally out of the
15 question.

16 MR. RON FARRIS: I would like to see you pull
17 that particular prospectus.

18 I've hunted east, west and north for turkey
19 and drawn this tag many times.

20 MR. GARDNER: Are you talking about turkeys in
21 this region?

22 MR. RON FARRIS: Well, his point was --

23 And specifically the areas where you have
24 controlled hunts for turkey, it's totally inappropriate
25 to provide guides and even limit us more because it's

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1 already very limited.

2 MR. GARDNER: Let's turn this into a question
3 then.

4 How many agree that in areas where there are
5 controlled hunts for turkeys, turkey outfitting should
6 not be allowed? Let's see a show of hands. 14.

7 MR. TATE BROOKS: Let me ask this question.
8 How many people have applied for turkeys and how many
9 people have actually drawn on turkeys? I've applied.
10 How many people have applied?

11 A VOICE: I've applied one time.

12 MR. GARDNER: 12.

13 MR. TATE BROOKS: How many people have drawn?

14 MR. GARDNER: Half the people have drawn that
15 have applied.

16 MR. HUNSAKER: What I would say is we'd take
17 note of that.

18 We're still waiting for Fish and Game to come
19 back with their recommendations. You'll notice on the
20 rulemaking, all those areas for turkey is left blank and
21 we're waiting for that data to put it in there.

22 MR. KENT CLARK: I'd like to say one more
23 thing.

24 MR. GARDNER: First, could we get the guy in
25 the red cap? I know he's been wanting to say something

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1 for quite a while.

2 MR. JOSH ORR: My name is Josh Orr, O-R-R.

3 I just have to point out I like what Ron had
4 to say. That was great. Because, first of all, I've
5 only been waterfowl hunting -- you know, I did when I
6 was really young, 12-years-old started and then stopped.

7 And I got back into it in the last four years
8 and it has been, by far, the funnest thing I've ever
9 done.

10 And when I do something, I research, I study,
11 I learn how to do it. And not only that, I've learned
12 to do what I call foot work. I find places, fields
13 where there are birds flying and I call friends and have
14 friends come hunt.

15 The places I find are from private landowners.
16 So, for me, where this is so new to me and I enjoy this
17 sport so much, I just think it would be devastating to
18 where we're going to get overrun.

19 Travis Mitchell right here brought up the 3
20 percent and the hunting and hunter days, when you really
21 look at the numbers that don't get shown here, it's
22 ridiculous.

23 And then when we look at the other things that
24 have been pointed out. Rick Martin had a lot of things
25 to say, but other things, too.

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1 I mean, it's just going back to Ron. It's the
2 future hunters. I'm probably, by far, the youngest
3 person in this room. I am a future hunter. I would
4 like my kids in the near future to do what I do.

5 But if this gets overrun by these guides and
6 these outfitters, we don't have an option.

7 Gentlemen, can I ask you: Do you hunt with
8 outfitters and guides?

9 MR. HUNSAKER: Yes.

10 MR. JOSH ORR: That's just for the record. I
11 just wanted to ask.

12 So, I mean, putting foot work in, spending
13 your own fuel money to scout birds, scout turkeys, it
14 adds up. It's just something that seems like all this
15 hard work, you want it to pay off. And when it does,
16 it's fun. You really don't want some asshole outfitter
17 to come who has the money to just take away your fun and
18 have it with others. That's what I have to say, where
19 I'm new to this.

20 MR. GARDNER: Before people speak a second
21 time, let me just ask: Is there anybody who hasn't
22 spoken yet? I'm looking at you, ma'am. Do you guys
23 want to say anything?

24 MR. BILL FUCHS: My name's Bill Fuchs. I was
25 at one of the original Fish and Game meetings over in

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|--|--|
| <p>1 Boise.</p> <p>2 I asked them this question of why there's a</p> <p>3 Moratorium that's been going on for 20-plus years at</p> <p>4 that point?</p> <p>5 I'm a fifth generation Idahoan. I've lived</p> <p>6 here my whole life, but I have some property here.</p> <p>7 And my question that I posed to the</p> <p>8 commissioners that day was: How come I can't have</p> <p>9 friends come from other places or if it's -- you know,</p> <p>10 and it's kind of tough times out there these days with</p> <p>11 the economy and everything else. Why can't I let people</p> <p>12 shoot waterfowl on my own property? And I just asked</p> <p>13 them those questions.</p> <p>14 And they had no answers. They said we don't</p> <p>15 know why we've had this Moratorium. We'll get back to</p> <p>16 you.</p> <p>17 Well, I've been patient all these years. And</p> <p>18 when they had this meeting, I was encouraged to come and</p> <p>19 hear and participate.</p> <p>20 So, I'm kind of -- and I'm a former chairman</p> <p>21 of the Rexburg Ducks Unlimited, a long time hunter. I</p> <p>22 appreciate everything you guys feel.</p> <p>23 The only difference is -- and I don't know</p> <p>24 your circumstances, but we do have some property here</p> <p>25 that has water on it. And I've gone in and taken my</p> | <p>1 resource that we, as the public, want to access.</p> <p>2 I heard about going up and dealing with the</p> <p>3 outfitters up in the wilderness or wherever it is, yeah,</p> <p>4 but they're paying a fee there.</p> <p>5 At that same meeting over in Boise years ago,</p> <p>6 there was an outfitter there that was having to --</p> <p>7 because the wolf thing was just starting right then and</p> <p>8 he said, you know, I'd like to give back my outfitting</p> <p>9 license because the wolves had decimated his herd of elk</p> <p>10 that he was hunting. He was not making a living there.</p> <p>11 And the outfitters, most of them, are not</p> <p>12 making big money. The hunting clubs and the no trespass</p> <p>13 fees is not even covered in what they're talking about</p> <p>14 here. That's going to happen anyways.</p> <p>15 But on the outfitters' side of it, they are</p> <p>16 just trying to provide a service, just like fishing or</p> <p>17 downhill skiing or whatever, to get the public out</p> <p>18 there.</p> <p>19 And when somebody comes from Oklahoma and</p> <p>20 wants to go waterfowl hunting, he's got to bring all of</p> <p>21 that stuff with him; his dog, his decoys and all that</p> <p>22 stuff that you guys throw in your pick-up. How is he</p> <p>23 going to get that here to enjoy Idaho?</p> <p>24 I mean, Idaho's got the tourism board and all</p> <p>25 these different things trying to get people here, but</p> |
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| <p>1 money and developed waterfowl habitat because I love</p> <p>2 ducks. I love to hunt. I love to hunt. Like to fish,</p> <p>3 but I love to hunt. Got that from my dad.</p> <p>4 And, so, when people come to Idaho from</p> <p>5 Oklahoma and Fish and Game is trying to provide as much</p> <p>6 opportunity to the residents as well as out-of-state</p> <p>7 people, they base their budgets on out-of-state fees.</p> <p>8 And what I hear from a lot of you guys is that</p> <p>9 there isn't a lot of habitat on the public ground.</p> <p>10 Well, the problem is is that the State is not</p> <p>11 doing a very good job of managing the public ground. I</p> <p>12 would guess just under 70 percent of Idaho is public</p> <p>13 ground.</p> <p>14 And you're trying to regulate a small</p> <p>15 percentage of what's left, that private ground, and it's</p> <p>16 getting developed and everything else around it over in</p> <p>17 Ada and everything else.</p> <p>18 I've talked to lots of people that have told</p> <p>19 me about pheasant hunting just outside of the city</p> <p>20 limits of Boise or Emmett or wherever, and it's getting</p> <p>21 gobbled up, that prime habitat that we all remember. I</p> <p>22 grew up down in Rigby and there's subdivisions growing</p> <p>23 everywhere.</p> <p>24 But you need to support the habitat</p> <p>25 development and support Fish and Game on developing that</p> | <p>1 we're tying their hands.</p> <p>2 And I really understand about the Utah aspect</p> <p>3 of this. I know what they'll do. I know what they've</p> <p>4 done.</p> <p>5 But to try to limit the 15 or 20 percent</p> <p>6 that's in agricultural crop ground is limiting and</p> <p>7 stepping on private property rights.</p> <p>8 And those guys that are giving you that access</p> <p>9 -- and I give people access to my place -- is that you</p> <p>10 need to ask.</p> <p>11 Because I've got all those instances when they</p> <p>12 trespass and they're not supposed to be there and they</p> <p>13 didn't ask and I've been lied to in all those different</p> <p>14 aspects of how they get access. From a property owner's</p> <p>15 standpoint, it's difficult to them. And they're in the</p> <p>16 same economy we all are and if they could get a couple</p> <p>17 more bucks "wow." I don't know what the solution to</p> <p>18 that is.</p> <p>19 But right now I live up in Fremont County and</p> <p>20 my place is wide open for fishermen. I've got signs.</p> <p>21 I'm actually becoming a sportsmen manager to give people</p> <p>22 access. I've got some things like they put on trail</p> <p>23 heads so people can sign in and everything else. It's a</p> <p>24 cattle ranch, really, but it's a unique place and it's</p> <p>25 just a great -- and I leave it open.</p> |

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1 But when I've had problems in the past, it has
2 been with waterfowl hunters and some fishermen, as well.
3 But, for the most part, it's been they're parking in the
4 way or something because we need to get in and out.

5 But, for the most part, we just manage it and
6 the biggest problem is is that there's more people than
7 when we were kids out there doing it.

8 Unfortunately, waterfowl hunter numbers are
9 going down because there isn't a lot of recruitment and
10 everything else.

11 And I encourage everybody to take their kids
12 hunting, just get those people out there because it is
13 -- waterfowl hunting, besides the dogs, the decoys, the
14 birds, and everything else, it's a social thing. You go
15 out there and you're with your buddies and having a
16 great day. There's the weather and everything else that
17 happens when you're out there. It's magic.

18 And that's what we need to teach those young
19 people of what it's all about and encourage them to
20 bring their friends and everything else. There's just
21 so much of it and it's more than -- and it's for women
22 and old people and everything else because you don't
23 have to get to the top of some mountain. Usually it's
24 easier to do.

25 So, that's my soapbox, I guess. But I really

1 MR. SPENCER PANCHERI: It doesn't matter.
2 Everybody in this room who lives in the State of Idaho
3 has paid tax dollars to support the Fish and Game and
4 support everything that goes on. It's public money.
5 It's public game.

6 MR. REED HENDRICKS: We're too stupid for not
7 owning land is what the deal is.

8 MR. SPENCER PANCHERI: You're turning it into
9 a money game. The guy that owns the land, the guy that
10 has the biggest pocketbook that can pay 5,000, 10,000 or
11 whatever thousand dollars to come in and hunt on
12 somebody else's property, because they have a big enough
13 checkbook to get the trespassing fee, you're
14 commercializing public game. That's the problem.

15 If you own that property and you want to take
16 that property and you want to make it into a huge
17 hunting reserve and you want to go out there and shoot a
18 28-and-a-half point buck every year because it's your
19 property and you did that, great.

20 It's public game. You can't commercialize it.

21 MR. GARDNER: That's a point of view. Okay.
22 Did you want to say something?

23 MS. KATHY MOORE: And I'm not a waterfowl
24 hunter, so that was not my agenda for being here.

25 There's a lot of controversy. I hear a lot of

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1 understand what you guys are doing.

2 The Fish and Game needs to do a better job of
3 managing the wildlife and the habitat that's out there.
4 And we're just stepping on a lot of property owner's
5 toes to do that.

6 MR. GARDNER: I appreciate you showing this
7 other side. This is the horns of the dilemma. I've
8 been listening to all of you.

9 We're all frustrated when somebody with more
10 money can crowd us out of our hunting spot; and, yet, if
11 you're a landowner, you do have the right to do what you
12 want on your land and that right there is the --

13 MR. SPENCER PANCHERI: I want to ask one
14 question. He asked the question why can't he call his
15 buddies from Oklahoma or Missouri or wherever they might
16 come from and take the decoys, the dogs, go out there
17 and have a good old time during the day and hunt on his
18 property and he supplies the dogs and decoys and calls
19 and shotguns, there's absolutely no reason why you
20 can't.

21 MR. BILL FUCHS: Right. But if I took a
22 dollar from them to do that, I can't.

23 MR. SPENCER PANCHERI: Then you're
24 commercializing public game.

25 MR. BILL FUCHS: But it's on private ground.

1 threatened people. I come from a family of generations
2 of hunters, so I understand all of your positions.

3 I'm a little bit confused about the Outfitters
4 and Guides' role and position.

5 And with this gentleman here, I kind of side
6 as private landowners, I'm kind of here as to concerns
7 to what are our rights and how much control does
8 Outfitters and Guides take over when it comes to a
9 private landowner.

10 I can understand the public land part and a
11 lot of these people are talking about public land.

12 Let me tell you, as private landowners, we do
13 a lot for our own land. And then suddenly we have
14 somebody dictating to us as to what can and can't happen
15 on it. It's really confusing and frustrating.

16 And I didn't come here with the same agenda as
17 everybody else. I really didn't come with an agenda. A
18 little bit of curiosity about what your association is
19 and what you're trying to do for people or not do for
20 people.

21 And I've been in several government or public
22 hearings where I'm always confused as: Have we
23 identified the problem here? And are we making a
24 solution to fix it? Because I'm not really clear about
25 what problem we're addressing here.

| | |
|--|--|
| <p style="text-align: right;">Page 62</p> <p>1 I mean, I hear a lot of upset hunters. And I 2 have a son old enough to hunt that's hunted his whole 3 life. And hunting has changed. I know. I'm not an 4 active hunter anymore. I was raised on venison and 5 trout and I understand the hunting game, but it's not my 6 reason for being here.</p> <p>7 I don't know if I'm making any sense. This 8 private land thing, what is the position? What is 9 Outfitters and Guides' goal here? And what is the 10 problem we're addressing? And are we finding a solution 11 that matches the problem or are we just making controls 12 to upset hunters?</p> <p>13 It doesn't sound like we have that many 14 outfitters in the whole State of Idaho. It sounds like 15 we're a real minority.</p> <p>16 I sit on a Chamber of Commerce in a region 17 that's high for hunting that has no outfitters and can't 18 figure out why. I don't think they make it easy. I 19 don't think the problem is that we're abundant in 20 outfitters.</p> <p>21 So, I guess I would ask you: What's the 22 problem we're really addressing here?</p> <p>23 MR. GARDNER: The problem is the current 24 policy, which is a temporary Moratorium that was 25 implemented in 1989 to today, is judged by the agency to</p> | <p style="text-align: right;">Page 64</p> <p>1 business? I don't understand.</p> <p>2 MR. HUNSAKER: The primary role was set up by 3 the State legislature for the safety and health and 4 welfare of the general public when it is the company of 5 an outfitter and guide in a hazardous situation or a 6 dangerous situation.</p> <p>7 And then they put on top of that any animal or 8 -- any animal or bird hunting operation and recreational 9 activities is the purview of this Board and we're 10 mandated to take an application. Once we take an 11 application, we have 90 days to respond to it.</p> <p>12 We have been turning down applications and 13 refusing to take them because of the Moratorium and we 14 have had landowners requesting that, if we don't do 15 something, they will put a lawsuit together and go after 16 us.</p> <p>17 We spent \$70,000 last year defending the area 18 system and outfitters' opportunities in the State of 19 Idaho, defending the right to limit outfitters to 20 certain activities and areas because the lawsuit wanted 21 to open it up to --</p> <p>22 Like, Montana, you pay a fee, you get your 23 guide license and you're on your own, do whatever you 24 want across the entire State.</p> <p>25 If you want that, then we would not have</p> |
| <p style="text-align: right;">Page 63</p> <p>1 not be legally tenable.</p> <p>2 MS. KATHY MOORE: Is there a lawsuit pending? 3 Do we have somebody upset with it?</p> <p>4 MR. GARDNER: I'm not sure there is at 5 current.</p> <p>6 But either you or Mr. Fuchs could assert your 7 landowner rights to do some outfitting on your private 8 land. And they would need to make a response and it 9 would have to be a defensible response based on either 10 biological or sociological reasons.</p> <p>11 MS. KATHY MOORE: As a private landowner, if I 12 choose, then I have to come to your Board for permission 13 to do certain activities on my own private land.</p> <p>14 MR. HUNSAKER: If it relates to outfitting? 15 Yes. You have to get a license.</p> <p>16 MS. KATHY MOORE: I don't own any waterfowl 17 property -- well, not heavy waterfowl.</p> <p>18 MR. GARDNER: You could collect trespass fees 19 for people just to hunt on your land. That's not 20 outfitting. If you want to go beyond that to provide --</p> <p>21 MS. KATHY MOORE: What's the reason? What's 22 the goal of the agency for doing that, for imposing that 23 kind of control and regulation and fee upon a private 24 landowner? What's the goal? What does it do for the 25 private landowner? Is this just to keep us out of</p> | <p style="text-align: right;">Page 65</p> <p>1 fought those things in lawsuits. Okay?</p> <p>2 I think it was close to 50,000 a year before 3 that and 30,000 a year before that. And we keep getting 4 lawsuits and we can't afford it, honestly.</p> <p>5 We need to put a law in place that we can 6 defend without having to be threatened with a lawsuit.</p> <p>7 MR. GARDNER: To answer your question, ma'am, 8 I think this was -- this is in a proposed rule. If 9 you're a landowner and you just charge fees for access, 10 you don't have to be an outfitter.</p> <p>11 If you provide outfitter guided services or 12 solicit participation from the general public for those 13 services, that's when you have to get --</p> <p>14 MS. KATHY MOORE: This is regarding hunting 15 waterfowl specifically?</p> <p>16 MR. HOWARD: Any activity provided to the 17 public.</p> <p>18 MS. KATHY MOORE: It's just all confusing to 19 me because partly on the guided side of things, I 20 sometimes feel like, in our agencies, we're always 21 rewarding and penalizing the wrong people.</p> <p>22 And I'm not an advocate to being a guide. I'm 23 not a guide or anything like that.</p> <p>24 If you bring people up into our country or 25 come searching out to do this that are ignorant or that</p> |

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1 go about things on their own, they cause a lot of
2 trouble sometimes. They really do. So, sometimes I
3 think the benefit of a guide is helpful.

4 I'm not necessarily saying -- I think somebody
5 that's new to hunting shouldn't go out there and try to
6 figure it out on their own. I don't know where you send
7 these people. I guess that's what outfitters and guides
8 are for or they find a buddy.

9 I think there's a lot of other activities
10 outside of hunting that you're better off without that.

11 It kind of feels like your agency wants to
12 penalize people for providing that service. I'm
13 confused by it.

14 MR. GARDNER: I think the agency is in the
15 business of managing those services.

16 A VOICE: I'm sorry, who is bringing these
17 lawsuits, the 30,000, 50,000, 70,000 in litigation
18 attorney fees? I guess a flag that went up for me when
19 you went through the litany there, you had an attorney's
20 opinion. Well, you can get 10 attorneys and get 10
21 opinions. Did it come from our State Attorney General?
22 Who was this?

23 MR. HOWARD: It came from a Board attorney
24 that's hired by the Board. He does represent a number
25 of State agencies -- self-governing State agencies.

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1 A VOICE: Who's fighting this? Who's
2 initiating that?

3 (Interruption by the court reporter to get
4 names of individuals talking.)

5 MR. HOWARD: I'm not sure if I quite
6 understand your question.

7 We don't have a lawsuit pending the existing
8 issue of waterfowl.

9 We have a lawsuit that's actually on record
10 who has sued the Board for denying an application to
11 fish on the South Fork. There's been several lawsuits
12 that have been prosecuted over here.

13 And then we have another lawsuit from an
14 outfitter -- a former outfitter in Idaho that has sold
15 his business and has continued to operate as a hunting
16 outfitter up here.

17 MR. CRAIG GAUDIO: I came in here really
18 neutral, just a hunter. I'm a little bit unhappy with
19 what I'm hearing.

20 It seems like we've gone beyond the point of
21 saying, is this really a good idea or not and we're into
22 this biological piece that's unsubstantiated?

23 And you talk about making people mad, maybe
24 I'll make you mad on this, but IOGA is a club and you
25 profit by getting more people --

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1 MR. GARDNER: That's not who we are.

2 MR. GREG WEATHERBY: It's a club.

3 MR. GARDNER: That's the association of
4 outfitters. This is the regulative --

5 MR. GREG WEATHERBY: And you profit by getting
6 more people as outfitters. And all I can see now is you
7 want more outfitters and that's going to have negative
8 consequences.

9 MR. HUNSAKER: I think you have a
10 misconception.

11 MR. GREG WEATHERBY: I'll let you answer in a
12 second. Please let me finish.

13 What I'm really upset about is when a public
14 citizen back here asks you for information and it
15 doesn't take him five minutes to pull your legs out from
16 underneath you on things you didn't give him so he, as a
17 citizen, can make good decisions. That's bad news. We
18 see that everywhere now in our country. How come you're
19 not giving him that information?

20 MR. HOWARD: You're assuming what he's telling
21 you is accurate and true. Okay?

22 MR. GREG WEATHERBY: Give him the information.
23 Maybe he'll make a better --

24 MR. HOWARD: We did give the information.

25 MR. GREG WEATHERBY: God, why are you not

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1 giving him that information because I can't make a
2 decision as to --

3 MR. GARDNER: We put in the ground rules that
4 we were not going to debate today.

5 So, I mean, he's calling me names. I'm just
6 going to take it. You can call me all the names you
7 want.

8 MR. GREG WEATHERBY: What if I asked you for
9 that information? Would you give it to me?

10 MR. HOWARD: Yes, by law, we give it to you,
11 yes.

12 MR. GREG WEATHERBY: That's not what I'm
13 hearing from over here.

14 So, I need more information to make a
15 decision. And after coming in here, I'm going to go to
16 my elected people and say: Are we beyond this
17 Moratorium? I'm not happy with this.

18 And I can see by the way you're reacting to me
19 right now is that you're not really a neutral party. I
20 don't care for that.

21 The reason you're here is to go through a
22 State NEPA-like process.

23 And just to say we rang all the bells, I can't
24 be in your court. Sorry.

25 MR. GARDNER: The one point I was trying to

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| <p>1 respond, sir, is that we are not the Idaho Outfitters 2 and Guides Association. That is a professional 3 association of outfitters.</p> <p>4 We are not outfitters. We're representing the 5 Board that regulates outfitters.</p> <p>6 MR. GREG WEATHERBY: Does the State agency 7 generate revenue from outfitters?</p> <p>8 MR. GARDNER: Yeah.</p> <p>9 MR. GREG WEATHERBY: That was the point and I 10 think that point was well made and don't avoid it. We 11 all understand that.</p> <p>12 MR. RON FARRIS: I need to make a point here. 13 I went to a public hearing to fight the wind turbines up 14 on the hill. Okay? I'm going to draw an analogy 15 between what's currently here and what happened up 16 there.</p> <p>17 We fought that and we lost. And once those 18 flood gates open, the county -- a bunch of idiots -- 19 allowed that to occur. We lost hunting opportunity. We 20 lost habitat. We lost critical winter habitat time for 21 our big game. And we've lost an opportunity for our 22 children to have a place to hunt locally.</p> <p>23 That same crap is going to occur when we open 24 up the flood gates to allow this to come in, because 25 once you start closing down land, you lose hunters. And</p> | <p>1 MR. GARDNER: Gentleman in the back.</p> <p>2 MR. TATE BROOKS: Do you know how many people 3 have applied for permits to guide for waterfowl and 4 turkey?</p> <p>5 MR. HOWARD: There's probably been a half 6 dozen in the last five or six years, probably. Just 7 outfitters.</p> <p>8 MR. TATE BROOKS: I'm going to play the 9 devil's advocate right here.</p> <p>10 I'm from Utah. I grew up on the clubs that 11 these guys are talking about. Those clubs have been 12 there longer than anybody in this room has been alive. 13 My dad is a member of this club passed down from my 14 grandfather.</p> <p>15 It's not the clubs that have made hunting in 16 Utah worse.</p> <p>17 The club that my parents belong to have a 18 biologist and the State of Utah comes to that biologist 19 to help set the regulations for the whole entire State. 20 Some of those clubs actually do a very good job.</p> <p>21 That's not why Utahans come here is because of 22 those clubs. I know because I lived there most of my 23 life. I've lived in Idaho for 18 years. I have guided 24 waterfowl. I am currently a turkey outfitter; not in 25 this country, but I know that side.</p> |
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| <p>1 this is not a sustainable process. This is a short-term 2 fix that, in the long term, is going to bite Idaho.</p> <p>3 I lived in Virginia. I've lived all over the 4 United States being in the Military. And I'm going to 5 tell you, where they have this crap, hunting goes away 6 and the hunting public goes away and the voice of the 7 hunter goes away. And as it goes, so does hunting.</p> <p>8 We're going to lose it all if we think that 9 this is a solution. Long-term. It's a short-term fix 10 with a handful of people who will profit and everybody 11 else will suffer for a handful to get a profit today. 12 And, ultimately, wildlife and hunters will lose; and, 13 ultimately, our children will lose.</p> <p>14 If we don't make this sustainable -- and 15 you've got to consider that, gentlemen. Consider the 16 sustainability of hunting in Idaho if we privatize this 17 crap. It's Africa all over. It's just rich people 18 getting the gold. We can't do that to ourselves.</p> <p>19 And I know you have a position based on your 20 Board position, but if you care about hunting, you care 21 about wildlife, like I do, you'll do the right thing.</p> <p>22 But don't do this to us. Don't turn it into a 23 God damn wind farm up here on the hill. This is 24 craziness. It's a flood gate of craziness. We've got 25 to stop it.</p> | <p>1 Now I sit on the fence because I understand 2 where everybody's coming from.</p> <p>3 I've lived here 18 years. I have friends from 4 Utah. When they come here now, I tell them they better 5 damn sure leave their cameras at home. I've seen it on 6 the forum. I know what happens.</p> <p>7 And all I can say is it's going to happen. 8 It's inevitable. I just hope that all the facts are 9 gathered and the best decision's made for everybody.</p> <p>10 Five people applying for permits in the last 11 five years, I don't see any threat at all.</p> <p>12 If the areas -- the two outfitters that are 13 there now that I personally know don't affect my hunting 14 whatsoever. I've hunted with them for five, six years. 15 I just don't -- I don't know.</p> <p>16 I just want you to do the best job you can.</p> <p>17 MR. GARDNER: We'd like to take about a 18 five-minute break here for the benefit of our 19 transcriptionist.</p> <p>20 (A recess was taken from 8:59 P.M. to 21 9:05 P.M.)</p> <p>22 MR. CRAIG GAUDIO: Let's talk about having a 23 buffer zone between, let's say, an outfitter that has 24 leased ground and public ground. I mean, I know of 25 specifically a spot in Shelley where an outfitter has</p> |

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| <p>1 leased ground. The blind is built on the very edge of 2 the property and they shoot over public ground for all 3 their birds as far as the ducks. 4 MR. HUNSAKER: Is this a licensed outfitter? 5 MR. CRAIG GAUDIO: Apparently, yeah. 6 MR. KENT CLARK: No, he's not licensed. 7 MR. REED HENDRICKS: Who is it? 8 MR. TATE BROOKS: Three Rivers Outfitters. 9 MR. KENT CLARK: They're not licensed for 10 Shelley. 11 MR. TATE BROOKS: But, according to the Board, 12 just like with Planning and Zoning, they could apply for 13 it and include that. 14 MR. KENT CLARK: They haven't. 15 MR. HUNSAKER: We'll have to look at our 16 licenses and see if we -- 17 MR. CRAIG GAUDIO: Bottom line is there's no 18 buffer zone between public and leased outfitting ground. 19 You know what I'm saying? They've got their blind built 20 right on the edge of the river. So, technically, 21 they're standing on their leased ground and they're 22 shooting over public ground for birds. So, where's the 23 buffer zone? There is none. 24 MR. GARDNER: In your example you made -- 25 MR. CRAIG GAUDIO: There's zero.</p> | <p>1 there. 2 MR. CRAIG GAUDIO: I would -- let's just 3 assume he is. 4 MR. HUNSAKER: The grandfathered in people 5 don't have that on their license. They don't have a 6 buffer zone. 7 MR. GARDNER: So, why don't you flip that in 8 terms of your opinion? You would like to see a buffer 9 zone? 10 MR. CRAIG GAUDIO: Absolutely. 11 MR. TATE BROOKS: 200 yard buffer zone. 12 MR. CRAIG GAUDIO: Yep. 13 MR. TATE BROOKS: There you go. 14 MR. GARDNER: And 200 yards because... 15 MR. TATE BROOKS: 200 yards, you're not 16 getting -- if somebody is on the river, you're not going 17 to probably be hit by falling shot. 18 MR. GARDNER: Twice the distance of the shot. 19 MR. HUNSAKER: Dick, I think in our 20 discussions we had talked about 300 yards. 21 MR. CRAIG GAUDIO: That's even better. 22 MR. TATE BROOKS: That's better. 23 MR. HUNSAKER: I don't remember the exact 24 numbers. 25 MR. GARDNER: I remember Fish and Game had a</p> |
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| <p>1 MR. HUNSAKER: I can't respond to that. 2 MR. CRAIG GAUDIO: The reason I bring this up 3 is there's four outfitters and we've got one with no 4 buffer zone and you guys don't know about it. How are 5 we going to -- how are we going to regulate 100 6 outfitters? How about 10? 7 MR. HUNSAKER: The existing outfitters do not 8 have on their license a buffer zone limit. Okay? 9 What we're proposing would have a buffer zone 10 limit if it goes into effect. 11 The current outfitters don't have that buffer 12 zone built into their license because they were 13 grandfathered in. 14 What we're trying to do is establish the 15 things that need to be established to provide buffer 16 zones. And, like I said, it could be a mile-wide buffer 17 zone on the edge of a river riparian area that's a 18 public land. We need to set those parameters. 19 MR. CRAIG GAUDIO: Okay. 20 MR. HUNSAKER: The example that you gave, I'm 21 not aware of, but -- 22 MR. CRAIG GAUDIO: I can drive you right to 23 it. 24 MR. HUNSAKER: I don't know if he's licensed 25 in that area. I assume that he is if he's hunting</p> | <p>1 number, but I don't know if it was 300 feet or yards. 2 MR. JOSH ORR: It's got to be yards. 3 MR. GARDNER: There's a human safety aspect. 4 But there's also just what we were talking 5 about before with the fighting. You just want a little 6 social buffer there that you've got your private space 7 to -- 8 MR. CRAIG GAUDIO: Well, yeah, I can go sit 20 9 feet from that ground on an island and shoot over there 10 to their ground. They don't like that, though. 11 MR. HUNSAKER: You've got to keep in mind that 12 most of the areas that you're talking about, like around 13 Shelley, is fairly populated areas. And according to 14 the way it's written now, until we get some more 15 definitive answers from Fish and Game, that is a no- 16 outfitting area. 17 So, those parameters haven't been totally 18 worked out, but that's basically -- if you look at that 19 list of rivers and what it says, there's a whole lot of 20 this public waterway that's not even going to be able to 21 be outfitted. Okay? 22 MR. GARDNER: Let me turn this again into 23 maybe a positive piece of input we can use. So, right 24 now this just says certain sections of the Snake. 25 MR. CRAIG GAUDIO: Uh-huh.</p> |

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1 MR. GARDNER: Do you have particular parts
2 then that you think definitely should be non-outfitted
3 in this country? Tell me what it should be.

4 MR. HUNSAKER: We'd love for you guys to get a
5 map and mark it and say these are the areas that --

6 MR. GARDNER: Section 6, Region 6.

7 MR. BEN PANCHERI: I'm going to be honest, as
8 a waterfowler and somebody that -- the first half of my
9 waterfowling when I was old enough to hunt was on the
10 water.

11 That's a tough question to ask us just because
12 -- we're talking about these buffer zones and this
13 gentleman before was asking you how big will those zones
14 end up being if somebody is able to outfit or -- like,
15 he's saying Ashton or wherever.

16 For me, I've hunted water in Ashton, I've
17 hunted water in Shelley and here in north Idaho Falls.
18 I've hunted everywhere and I'm one person.

19 The point I'm trying to make is I'm one
20 person. All of my other friends have done the exact
21 same thing. So, it's, like, in my opinion -- I'm going
22 to go ahead and say this.

23 In my opinion, it's crowded everywhere. It's
24 hard for us to really put a -- put a zone on where it
25 should or shouldn't happen. You know what I'm saying?

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1 That's a tough question to answer.

2 We're all pretty competitive. I think at the
3 end of the day we all feel like we don't need anybody
4 else to --

5 What I'm trying to say -- I'm just proving a
6 point -- as far as us giving you information, that's a
7 tough game to play. You know what I'm saying?

8 MR. HUNSAKER: And that's why right now we're
9 waiting for and relying on the Fish and Game to help us
10 put these things together.

11 MR. BEN PANCHERI: I wish I could tell you. I
12 wish I could give you a map and say: I think from here
13 to here this is one of those areas.

14 But in all reality, like these guys were just
15 saying, in my opinion, it's from Palisades to as far
16 down as you can go down.

17 MR. GARDNER: Fish and Game may have data like
18 that on how many boats are using certain access ramps
19 during the season, stuff like that, that will give us a
20 sense of --

21 MR. SPENCER PANCHERI: I think a lot of the
22 concern that's going on here -- because I heard one of
23 the -- a lady spoke about private property. And I think
24 that's in a whole different realm.

25 In the big picture of what's going on, if you

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1 look at -- I'm going to use the South Fork of the Snake
2 River as an example -- the fishing guides. Okay? I
3 remember going up on the South Fork and being able to
4 catch fish.

5 And now you can't take a jet boat up the South
6 Fork without getting the middle finger from a guide. I
7 mean, it is ridiculous.

8 And I think -- I mean, if you have five
9 outfitters in the whole Eastern Idaho region, that's not
10 going to affect a whole lot of what public hunting is
11 going for, but once you open that door, the sportsmen
12 are afraid the door's going to get kicked open and then
13 you're going to have a fire storm and then it goes crazy
14 from there.

15 I mean, once you start commercializing and you
16 start using revenue, it's -- money always wins. It
17 doesn't matter. Once it turns into a money game, it's
18 revenue.

19 And I think that's what the sportsmen are
20 trying to avoid happening is --

21 Like I said, five -- I mean, who would
22 disagree with five guides in all of Eastern Idaho?
23 You're not adding that much competition.

24 But 50? 20? I mean, where do you draw the
25 line and say, okay, we're not going to have any more and

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1 it will turn into the South Fork. I think that's a lot
2 of concern.

3 MR. GARDNER: And what I think these gentlemen
4 are trying to figure out is how can we draw that line
5 and hold the land.

6 MR. CRAIG GAUDIO: What's the number that
7 you'll allow?

8 MR. SPENCER PANCHERI: As long as it's fair.
9 As long as it's an even keel down the middle and it's
10 fair.

11 MR. BEN PANCHERI: I want to say this for the
12 record, too, not that I'm slamming any guides that are
13 out there. I can't blame people for trying to make a
14 living. I really can't.

15 But a prime example of the door being kept
16 open or the possibility of the door being kept open, the
17 reason it scares me is, as I stated before, you guys
18 said that --

19 Did you say this year was \$70,000? Last year
20 it was \$50,000? And you used an outfitter as an
21 example. That's the power that those guys have with
22 their money already that we don't.

23 So, I guess that's the point I'm getting at.
24 Kind of like he said. If the door opens, will the door
25 ever get closed because it's --

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| <p>1 I can't blame those people for being 2 successful, like I said, that's -- I don't want to take 3 that away from anybody and I don't want to take their 4 opportunity away from them.</p> <p>5 I don't want to take our opportunity away from 6 us either. That's the biggest problem.</p> <p>7 And, so, you use the previous conversation, 8 like I said, on record, if you guys spent that much 9 money -- I know a little bit about the legal system -- 10 so did the outfitter to push the lawsuit in the first 11 place. So, they've got the money.</p> <p>12 I mean, somebody like me sitting here, I'm 28 13 years old. I've never made more than \$40,000 in a year. 14 That pretty much tells you where I'm at as far as if the 15 door never gets closed, how am I supposed to defend 16 myself?</p> <p>17 I'm not saying that I don't necessarily ever 18 want it to happen. It just -- if it ever does, it's got 19 to be controlled. And it's --</p> <p>20 I talked with these gentlemen during our 21 break. I, honestly, think that it can be -- this is 22 something that can be worked around. I mean, it really 23 is. There's good and bad for everybody. I think it's 24 all about how we go about it. And I think that this is 25 our support group side of things.</p> | <p>1 away from personal property rights.</p> <p>2 In your e-mail that you sent out, it says: It 3 is the Board that has ultimate responsibility and 4 jurisdiction over outfitters and guides in Idaho.</p> <p>5 That means you guys say what and how an 6 outfitter works in the State of Idaho. You are the 7 government agency that can set policy to eliminate or 8 allow waterfowl guiding or turkey guiding in Idaho. You 9 are the agency that can do that.</p> <p>10 You guys should have the ability to protect 11 our rights as the public so that it doesn't turn into a 12 money game.</p> <p>13 MR. HOWARD: That's why we're here, man.</p> <p>14 MR. TATE BROOKS: With those personal property 15 rights, you have to protect that landowner's personal 16 property rights along with our rights as hunters.</p> <p>17 MR. GARDNER: Gentleman in the green vest 18 first. Repeat your names, too.</p> <p>19 MR. SPENCER PANCHERI: Spencer Pancheri. I 20 think you misunderstood what I was talking about when I 21 said that I ran -- this actually opens a new line of 22 questions.</p> <p>23 But when I was talking about the guide, and he 24 was a licensed guide on national -- in National Forest 25 property in the State of Idaho, and what he was doing</p> |
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| <p>1 You guys, apparently, don't have a support 2 group here tonight. No offense.</p> <p>3 I think we need to be careful how we do it. 4 Like you were saying about the zones on the river, 5 instead of just us arguing, we need to have suggestions. 6 And I'm sticking up for us as well saying that. We all 7 need to go home and think about how -- what suggestions 8 we can give these guys to keep this in favor of us and 9 still get along with everybody else.</p> <p>10 Because that's one thing I do see happening, 11 as I kind of mentioned before, it's really tough for the 12 people to get along anymore. And it really bothers me. 13 I don't care if it's a government agency or people in 14 the field hunter-to-hunter. It's garbage. There's got 15 to be a way to get around it.</p> <p>16 MR. GARDNER: Does anybody else have a new 17 point here?</p> <p>18 MR. TATE BROOKS: I totally understand where 19 you're coming from on private property rights and the 20 landowners want to be able to make money with their land 21 in any way they possibly can.</p> <p>22 But government agencies all across this State 23 impose different regulations on personal property rights 24 to limit what you can do on your own property, whether 25 it's zoning, whether it's EPA, all those agencies take</p> | <p>1 was where the private property ended and the National 2 Forest property started, there was nothing that 3 identified that said that it went from deed to be on the 4 public property.</p> <p>5 And what he did was went through and posted 6 "No Trespassing" signs on the outside of the deeded 7 property on the public property to keep the public out 8 of their own public lands because he had -- obviously 9 had the guide rights to that canyon, that area and he 10 didn't want the public in there putting pressure on him 11 and his clients and whatever for the public game. So, 12 he went through and posted it.</p> <p>13 Well, we complained to Fish and Game. Fish 14 and Game got after him. He didn't get in trouble. Fish 15 and Game got after him and he pulled his signs down.</p> <p>16 The next season, the signs were there again. 17 We called and complained to Fish and Game. They got 18 after him and made him take them down. I finally quit 19 hunting up there.</p> <p>20 A buddy of mine ended up running into the guy 21 and the guy tried to run him off of National Forest 22 property. They almost got in a fist fight over National 23 Forest property because the guy said: You're 24 trespassing. You can't be here.</p> <p>25 The buddy of mine said: Look, this is public</p> |

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| <p>1 property. I can do whatever I want here.</p> <p>2 The guide said: No, this is private property.</p> <p>3 And what it come down to was the guide ended</p> <p>4 up saying: You show me a map that says that this is</p> <p>5 forest property.</p> <p>6 And, anyway, it almost turned into a fist</p> <p>7 fight because the guide was being bull-headed trying to</p> <p>8 protect his area.</p> <p>9 So, I guess ultimately my question is: If you</p> <p>10 guys implement this, who and how are they going to</p> <p>11 enforce what rules that you guys put down?</p> <p>12 MR. HUNSAKER: Let me give an example of that.</p> <p>13 We had an outfitter over in the central part of the</p> <p>14 State on the west that was doing a very similar thing.</p> <p>15 He is no longer in operation. His license has</p> <p>16 been jerked. His business has been sold. And he's not</p> <p>17 allowed to outfit in the State of Idaho.</p> <p>18 If we can document and substantiate it and our</p> <p>19 enforcement people can prove the case, we will take</p> <p>20 their license away.</p> <p>21 We need you guys that are seeing this in the</p> <p>22 field to come to our enforcement people, report it,</p> <p>23 document it, photograph it, get the back-up data that we</p> <p>24 need to go court; or we do the hearings ourselves; and</p> <p>25 we take their license away.</p> | <p>1 would indicate to us that the field officer that handled</p> <p>2 the case didn't think it came up to the --</p> <p>3 MR. HOWARD: There was not information there</p> <p>4 to really make a case.</p> <p>5 MR. SPENCER PANCHERI: What it came down to --</p> <p>6 it was in Leadore. What it came down to is the guy that</p> <p>7 was guiding was a Leadore native and the guy that was</p> <p>8 from the Fish and Game office in Leadore were buddies.</p> <p>9 That's what it came down to.</p> <p>10 MR. BEN PANCHERI: I think the point he's</p> <p>11 trying to get is somebody took the steps to report it --</p> <p>12 you know what I'm saying -- to an organization that</p> <p>13 you're saying you're trying to work with.</p> <p>14 But he doesn't feel that the right thing got</p> <p>15 done still. So, if there's more -- if there's more</p> <p>16 opportunity allowed, how does it -- what's the guarantee</p> <p>17 that it does get regulated?</p> <p>18 MR. HUNSAKER: If it's involving an outfitter,</p> <p>19 you have to report it to the Outfitter and Guides</p> <p>20 Licensing Board so we can take an action on it.</p> <p>21 I can't determine who in the field are friends</p> <p>22 and relatives that are not going to enforce the law at</p> <p>23 their discretion.</p> <p>24 I know our people will and we take -- more</p> <p>25 than once we've taken licenses away from outfitters.</p> |
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| <p>1 MR. SPENCER PANCHERI: So, who are your</p> <p>2 enforcement people?</p> <p>3 MR. HOWARD: We have an enforcement team in</p> <p>4 Boise. We also work cooperatively with the Fish and</p> <p>5 Game Department and the local sheriffs. We have about a</p> <p>6 half a dozen people that we've hired. We have one</p> <p>7 full-time guy in Boise and about a half dozen part-time</p> <p>8 guys throughout the State that work in different places.</p> <p>9 MR. HUNSAKER: We do covert operations with</p> <p>10 both the Fish and Game and local sheriffs' departments.</p> <p>11 MR. HOWARD: That and the Forest Service.</p> <p>12 That particular case you're describing, it</p> <p>13 sounds to me like there may have been a criminal</p> <p>14 violation.</p> <p>15 If Fish and Game was involved with it, why</p> <p>16 they didn't prosecute him, I think I'd be asking them.</p> <p>17 MR. SPENCER PANCHERI: It was reported twice</p> <p>18 to Fish and Game. And we assumed that that's where you</p> <p>19 had to go with it was Fish and Game.</p> <p>20 MR. HOWARD: Well, that would be a good place.</p> <p>21 MR. HUNSAKER: They normally would report it</p> <p>22 to us if they determined that that was a violation of an</p> <p>23 outfitter regulation. Or if the outfitter was doing</p> <p>24 unethical conduct, they would normally report it to us.</p> <p>25 The fact that they did not report it to us</p> | <p>1 MR. HOWARD: We've got to have credible</p> <p>2 information to file a complaint against somebody.</p> <p>3 MR. TRAVIS MITCHELL: Do you guys have a</p> <p>4 license for a Bearpaw Outfitters, Dale Denny?</p> <p>5 MR. HUNSAKER: Yeah.</p> <p>6 MR. HOWARD: Yeah.</p> <p>7 MR. TRAVIS MITCHELL: Do you remember getting</p> <p>8 a complaint in 2001 about him locking a gate on State</p> <p>9 land?</p> <p>10 MR. HOWARD: We've only been around since</p> <p>11 2002, so probably not.</p> <p>12 MR. TRAVIS MITCHELL: Or 2002, whatever it</p> <p>13 was. 10 years ago.</p> <p>14 I filed a complaint. Same type of situation.</p> <p>15 I won't bore you with the details.</p> <p>16 Locked the public gate. Stood there with a</p> <p>17 gun in his hand threatening me if I go over that fence.</p> <p>18 I filed a complaint with the Fish and Game</p> <p>19 that day, filed a complaint with you folks and somebody</p> <p>20 went in there and told him he had to take the lock off</p> <p>21 the gate.</p> <p>22 Fair enough. Okay. They slapped his hand.</p> <p>23 But you know what? You can never get that</p> <p>24 opening day of deer season back for me, ever. Okay?</p> <p>25 You can never get that one hunting experience that I had</p> |

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| <p>1 with my dad who died two years later back, ever.</p> <p>2 This is serious shit for us here. This</p> <p>3 hunting is serious. Okay?</p> <p>4 When an outfitter does something like that,</p> <p>5 they might have well have just killed somebody.</p> <p>6 Because, to me, it's that serious. You know what I</p> <p>7 mean? I was hot when that happened, I'm telling you</p> <p>8 right now.</p> <p>9 MR. HUNSAKER: Dale Denny was not a licensed</p> <p>10 outfitter back then.</p> <p>11 MR. HOWARD: In 2001. I don't know.</p> <p>12 MR. TRAVIS MITCHELL: 2001. I don't know what</p> <p>13 year it was. It was 10 years ago.</p> <p>14 MR. HUNSAKER: If you want us to bring it up</p> <p>15 with the enforcement --</p> <p>16 MR. TRAVIS MITCHELL: I'm just validating the</p> <p>17 concern that if there's an offense and they get a slap</p> <p>18 on the hand, it's not good enough.</p> <p>19 And I'm not telling you guys that you do a</p> <p>20 shitty job.</p> <p>21 I'm saying I feel the same way about the Fish</p> <p>22 and Game and when somebody poaches an elk and they give</p> <p>23 them a \$500 fine. 500 bucks? Shit. That's worth it.</p> <p>24 To me, that's worth the risk. You know what I'm saying?</p> <p>25 MR. HUNSAKER: The point's taken.</p> | <p>1 tire tracks are going to be from waterfowl hunters.</p> <p>2 If you go back from when deer season ends</p> <p>3 September 15th to January 25th, probably 85 percent of</p> <p>4 those tire tracks are waterfowl hunters. There's no</p> <p>5 turkey around. Nobody's probably going to be fishing</p> <p>6 and deer season's over. So, all you can do is --</p> <p>7 MR. TRAVIS MITCHELL: There's ways to do it.</p> <p>8 MR. TATE BROOKS: You can take a percentage of</p> <p>9 those and then whatever percentage you have, base your</p> <p>10 permits or your guides in that area off of those.</p> <p>11 Because I know every district's going to be</p> <p>12 different. Some districts are much bigger. Boise,</p> <p>13 there's so much pressure over there.</p> <p>14 MR. GARDNER: Generally under these rules,</p> <p>15 there would not be any outfitting on the waters</p> <p>16 themselves.</p> <p>17 MR. TATE BROOKS: Yeah. If you did that,</p> <p>18 there would probably be one guide in this whole entire</p> <p>19 area, which I could care less. I don't care if there's</p> <p>20 five in the area.</p> <p>21 MR. SPENCER PANCHERI: So, if you guys control</p> <p>22 the guiding in the State of Idaho, how many guides are</p> <p>23 on the South Fork, say, between Palisades Dam and</p> <p>24 Lorenzo?</p> <p>25 MR. TATE BROOKS: For waterfowl, there's one.</p> |
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| <p>1 MR. GARDNER: I'm hearing any rules, they've</p> <p>2 got to be enforced.</p> <p>3 MR. HUNSAKER: We understand that.</p> <p>4 MR. GARDNER: Okay. We got that.</p> <p>5 You were going to say something.</p> <p>6 MR. TATE BROOKS: We talked about the bumper</p> <p>7 zone. I like the 300 yard idea.</p> <p>8 I would like to see the Fish and Game use the</p> <p>9 counts because I know they do that at certain boat</p> <p>10 ramps. The Fish and Game should know how much those</p> <p>11 boat ramps get used.</p> <p>12 I'd like you guys and the Fish and Game to</p> <p>13 base those permits or outfitting licenses that are given</p> <p>14 in any district, somehow to figure out a percentage of</p> <p>15 how much an area gets used as to how many permits you'll</p> <p>16 give out.</p> <p>17 MR. HOWARD: So would we.</p> <p>18 MR. TATE BROOKS: That's what I'd like to see.</p> <p>19 MR. JOSH ORR: Just to expand on this, Tate.</p> <p>20 That's so broad, though, because it's going to expand</p> <p>21 into fishing. It's going to expand into -- I mean --</p> <p>22 MR. TATE BROOKS: No system's going to be</p> <p>23 perfect. I mean, I guarantee you if the Fish and Game</p> <p>24 goes to a boat ramp and looks at their box on October</p> <p>25 5th and then goes back October 7th, 90 percent of those</p> | <p>1 MR. SPENCER PANCHERI: No, for fishing.</p> <p>2 MR. HOWARD: For fishing.</p> <p>3 MR. GARDNER: How many fishing outfitters are</p> <p>4 on the South Fork?</p> <p>5 MR. HOWARD: As I recall, there's eight</p> <p>6 outfitters and I think they're limited to how many boats</p> <p>7 are on the water.</p> <p>8 And then they're further regulated by the</p> <p>9 Forest Service and the BLM on which sections they can be</p> <p>10 on at a given time.</p> <p>11 MR. SPENCER PANCHERI: From my experience with</p> <p>12 running the South Fork, the guides aren't pleasant.</p> <p>13 Let's put it that way. They don't go out of their way</p> <p>14 to be nice.</p> <p>15 And it's gotten to the point where -- I know a</p> <p>16 lot of guys with jet boats and a lot of guys that fish</p> <p>17 that and it's gotten to the point to where the guides</p> <p>18 are not liked, not even a little bit liked up there</p> <p>19 because of the attitude that they've taken towards the</p> <p>20 jet boaters; and, basically, the general public. They</p> <p>21 think they own that river.</p> <p>22 So, to me, that's way too many guides and way</p> <p>23 too many boats on that stretch of river. You cannot go</p> <p>24 down that stretch of river without finding a guide.</p> <p>25 It's unbelievable.</p> |

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1 So, what's going to stop -- I mean, it goes
2 back to if you open it a little bit, is the door going
3 to get kicked open? What's going to stop that from
4 happening in the waterfowl and turkey thing?

5 MR. HOWARD: The appropriate development of
6 these rules. That's why we're trying to figure this
7 out.

8 MR. BEN PANCHERI: Which is why I say what we
9 need is suggestions and not -- we've argued enough. And
10 now it's time to --

11 I guess I'm a little bit of -- I mean, I
12 didn't catch your name, but I guess I'm a little bit of
13 your opinion. Eventually, I think it will happen
14 anyway. You know what I'm saying? It's happened
15 everywhere else. I mean, I've always said that. We're
16 going to fight a losing battle eventually.

17 So, eventually it gets to the point where it's
18 not how do we stop this. It's how do we get along with
19 everybody. That's the deal. That's why I've been
20 thinking about suggestions.

21 MR. RICK MARTIN: My question to you is: If
22 the majority of people do not want it -- and there was
23 only one person at the Orofino meeting, according to
24 what's posted on their web site that was in favor of
25 it -- and the majority here were against it, you know,

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1 going to conduct. And then we're going to spend some
2 more time with the draft rule and we'll probably put
3 another revision together prior to the meeting that
4 comes out in April and then we'll move through the next
5 phase.

6 MR. GARDNER: That's why we tried to raise the
7 point in the first presentation. We're trying to seek a
8 consensus. We're trying to balance these competing
9 interests. We're not trying to do a democracy or a
10 popularity contest.

11 MR. RICK MARTIN: Can I ask a question,
12 though? If the vast majority, say, 80, 90 percent of
13 those people that attend these meetings and the input
14 that you get are opposed to anything other than
15 Moratorium, would you guys keep the Moratorium into
16 effect?

17 MR. HOWARD: I can't answer that. We don't
18 know. It's up to the Board.

19 MR. TRAVIS MITCHELL: Who's the Board? Are
20 you guys part of the Board?

21 MR. HUNSAKER: I'm part of the Board.

22 MR. RICK MARTIN: I think you guys have made
23 up your mind and it's going to happen. That's my gut
24 feeling. If you're going allow it, I think you ought to
25 allow it State-wide on every single waterway, every

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1 you're supposed to listen to the public, then why are we
2 going through with it?

3 MR. BEN PANCHERI: Well, I can tell you right
4 now sitting here, I'm trying to speak in the best
5 interest of me and my friends' beliefs, but there's also
6 15 dudes in this room. That's not very many. I'm not
7 trying to argue against me and my friends either, but
8 it's -- so, there was 14 guys in here that were against
9 it.

10 MR. RICK MARTIN: I can also show you other
11 poles.

12 MR. HOWARD: Well, one thing I can tell you,
13 guys, is we're going to take all of this, the
14 transcripts are going to be written, we'll take it back
15 to the Board, and, you know, they'll sort through this
16 and make a determination.

17 We're not the deciding decision-makers. I'm
18 the director. I can certainly give my opinion on what I
19 think should happen and what I don't think should
20 happen.

21 And, you know, Wayne is the Board Chairman.
22 Obviously he has influence on the Board. And we'll go
23 through this and the Board will sort out what they feel
24 is appropriate.

25 We've got three other hearings that we're

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1 single riverway so that everyone feels the same
2 pressure.

3 I do not hunt the river. I avoid the river.
4 It's not my cup of tea.

5 But I do hunt lots and lots of private ground
6 in areas where there's a lot of birds. And that stuff
7 will be bought up and I will be out and my boys, that
8 are 12 and 14, will be out of their hunting spots.

9 And I think that the people on the river
10 should have to compete just like everybody else.

11 MR. RICK MARTIN: The input that you're
12 getting here -- you want to talk about biological and
13 sociological input -- this is the sociological part that
14 needs to be considered equally that you're not
15 quantifying in some of the information that you've been
16 given.

17 These are the people in the public of Idaho
18 that are saying, damn it, don't do it. We don't want
19 it. We don't need it. But that's the part that's being
20 ignored and has been ignored for years, clear back when
21 the turkey study went back into effect and you allowed a
22 certain number of turkey guides back in the early '90s.
23 That was supposed to be a three-year study and it's
24 still ongoing.

25 MR. GARDNER: Any other new points? I feel

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| <p>1 like we're repeating issues.</p> <p>2 MR. TRAVIS MITCHELL: Is it in this written</p> <p>3 instructions as far as web sites?</p> <p>4 MR. HOWARD: Go on to our e-mail. There's an</p> <p>5 e-mail address on there where you can comment.</p> <p>6 MR. BEN PANCHERI: Written suggestions was</p> <p>7 welcome?</p> <p>8 MR. HOWARD: Absolutely.</p> <p>9 MR. BEN PANCHERI: If you put your e-mail on</p> <p>10 the list, I mean, obviously the people that are on this</p> <p>11 list will be updated, I'm assuming, with anything you</p> <p>12 guys have or --</p> <p>13 MR. HOWARD: We're going to create --</p> <p>14 MR. GARDNER: This is the web site that will</p> <p>15 be maintaining both the comments and the evolving rules.</p> <p>16 The next generation will be up there.</p> <p>17 MR. HOWARD: We've already created that there</p> <p>18 is an e-mail list that we will be e-mailing information</p> <p>19 out to people who have given us their e-mail addresses.</p> <p>20 And, you know, hopefully, my secretary can</p> <p>21 read some of the writing. Some of it's a little ragged.</p> <p>22 We'll do our best.</p> <p>23 And we've been doing that all along. And then</p> <p>24 all this information is going to be maintained on our</p> <p>25 web site, as well.</p> | <p>1 And, so, we don't know what the decision of</p> <p>2 the Board is going to be. Okay?</p> <p>3 And, ultimately, this thing goes to the State</p> <p>4 Legislature and we don't know what the division of the</p> <p>5 decision in the State Legislature is going to be.</p> <p>6 What we're trying to do is wrap our arms</p> <p>7 around something that will replace this Moratorium that</p> <p>8 we're concerned about with a rule that is legally</p> <p>9 defensible that will set the appropriate limits and</p> <p>10 restrictions in place. And trying to grasp that with</p> <p>11 this broad spectrum of who is affected by this and who</p> <p>12 is interested in it, is very difficult.</p> <p>13 To be candid, I share many of your concerns.</p> <p>14 Personally, I really do.</p> <p>15 But at the same time we've got to be able to</p> <p>16 get a full understanding of what's going on here. And</p> <p>17 that's very difficult to do.</p> <p>18 So, as this thing moves forward, there's going</p> <p>19 to be other opportunities for input to the Board and</p> <p>20 ultimately the State Legislature, if it goes that far.</p> <p>21 And we'll see what happens.</p> <p>22 But for us to sit here and say we're going to</p> <p>23 legally defend something this way or that way right now,</p> <p>24 it's asking us to defend apple pie or carrot cake. We</p> <p>25 don't know exactly what it is that we're defending.</p> |
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| <p>1 MR. SPENCER PANCHERI: How can you not defend</p> <p>2 -- I'm seriously asking a question. I'm not -- I don't</p> <p>3 want to sound like I'm being sarcastic.</p> <p>4 How can you legally not defend the fact that,</p> <p>5 say -- I'm just going to use 80 percent -- I don't know</p> <p>6 what it is -- that 80 percent of the public does not</p> <p>7 want commercial guiding in waterfowl? How can you not</p> <p>8 legally defend that?</p> <p>9 MR. HOWARD: Well, I don't know. It's a</p> <p>10 matter of --</p> <p>11 MR. SPENCER PANCHERI: It's opinion; not law.</p> <p>12 MR. HOWARD: I think you have to recognize the</p> <p>13 public is a broad spectrum of people.</p> <p>14 Certainly the sportsmen's groups and the</p> <p>15 people that are coming into this meeting are a part of</p> <p>16 that.</p> <p>17 Certainly the landowners are representative of</p> <p>18 the public.</p> <p>19 We have outfitters.</p> <p>20 And then we have outfitted clients.</p> <p>21 So, we have the economic development people</p> <p>22 that are interested in what's going on here.</p> <p>23 So, the public is fairly broad. And, so,</p> <p>24 we're going through this process right now trying to get</p> <p>25 a grasp on this thing. Okay?</p> | <p>1 MR. HUNSAKER: Most of the Board -- just me</p> <p>2 speaking from my perspective -- most of the Board has</p> <p>3 been in support of the Moratorium all along. We've been</p> <p>4 told that that's not legally defensible.</p> <p>5 We've been asked about opening up, getting</p> <p>6 outfitted private lands. That's why we're here.</p> <p>7 It's easier for us just to say "no," okay,</p> <p>8 that the Moratorium goes on forever, but we just can't</p> <p>9 do that anymore.</p> <p>10 MR. TATE BROOKS: How long is it going to be</p> <p>11 before somebody sues you guys to guide on public ground?</p> <p>12 MR. HOWARD: Who knows.</p> <p>13 MR. TATE BROOKS: So, the Moratorium will be</p> <p>14 good on public ground but not on private ground.</p> <p>15 MR. HUNSAKER: I think as long as we have</p> <p>16 defensible -- it's if our attorneys tell us that we have</p> <p>17 a defensible stance.</p> <p>18 It's like Planning and Zoning, every County</p> <p>19 Commissioner is going to be challenged on a Planning and</p> <p>20 Zoning issue sometime during their term. It's just</p> <p>21 going to happen.</p> <p>22 MR. RICK MARTIN: But, see, it goes back to --</p> <p>23 I know that you guys' attorney -- the Board's attorney</p> <p>24 has said that it's not defensible.</p> <p>25 We've had other attorneys say just the</p> |

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1 opposite. It is defensible.

2 Somebody mentioned it earlier. You can get
3 100 attorneys. You're going to have 100 different
4 opinions.

5 So, without some case law, without something
6 challenging it and something to base it on, for just an
7 attorney to say it's not defensible really doesn't hold
8 water because there is plenty of information out there
9 to support it. It's there.

10 MR. GARDNER: You need to understand when a
11 person serves on a public Board, they have
12 responsibilities to do their due diligence and to
13 protect the organization as best they can.

14 MR. RICK MARTIN: We understand.

15 MR. HOWARD: There's our attorneys that we --

16 MR. RICK MARTIN: There's also good attorneys
17 on the other said saying just the opposite.

18 MR. GARDNER: If you're a board member, who's
19 advice would you take? Your own counsel's or someone
20 else's?

21 A VOICE: It's part of the public input that's
22 being given. That's what I'm saying.

23 MR. HOWARD: Gentlemen, I'm going to be honest
24 with you. We're going over the same thing over and over
25 again.

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1 We very much respect what you're telling us
2 and we're hearing it. We're capturing. We'll give it
3 to the Board. They'll sort this out and we'll figure
4 out how to move forward.

5 MR. BEN PANCHERI: Can I make one more
6 statement real quick that I think is valid?

7 MR. HOWARD: Sure.

8 MR. BEN PANCHERI: What Spencer was saying, 80
9 percent of the people is opinion.

10 The fact that they're saying it's not
11 defensible in court is law.

12 What's law is on the paper. That's what we
13 have to change.

14 MR. HOWARD: Right.

15 MR. BEN PANCHERI: Basically.

16 MR. RICK MARTIN: It's not on paper.

17 MR. BEN PANCHERI: There is some pretty open
18 things in the rules. That's why I'm going to stress one
19 more time -- and it's the last time I'll say it -- even
20 if it's written suggestions, that's what we have to do
21 to fix it.

22 Sitting in here arguing about it doesn't do
23 any good. If they say it's not defensible, let's make
24 it defensible. It can swing our way.

25 MR. SPENCER PANCHERI: I'm obviously not for

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1 this and I understand you guys are in a predicament and
2 you're trying to figure all this out.

3 If you look at the broad spectrum of what's
4 going on in the Western United States -- not even
5 western -- in the United States with hunting, it's going
6 to guides. It's going to.

7 If you're going to go and try and defend that
8 in court, they're going to bring in Utah and throw it in
9 your face and say, look, we're doing this in all these
10 other states.

11 I understand what you guys are doing and I
12 appreciate what you guys are doing. I just want to make
13 sure it's as unbiased as possible.

14 MR. HUNSAKER: Well, let me close the meeting.
15 We do need to bring it to an end. I appreciate the
16 comments. We, honestly, do listen and we'll do our
17 best. That's all we can do.

18 (The deposition concluded at 9:41 P.M.)

19 (Signature waived.)
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REPORTER'S CERTIFICATE

1 I, MARY (RAINEY) STOCKTON, CSR No. 746,
2 Certified Shorthand Reporter, certify: That the
3 foregoing proceedings were taken before me at the time
4 and place therein set forth, at which time the witness
5 was put under oath by me;

6 That the testimony and all objections made were
7 recorded stenographically by me and transcribed by me or
8 under my direction;

9 That the foregoing is a true and correct record
10 of all testimony given, to the best of my ability;

11 I further certify that I am not a relative or
12 employee of any attorney or party, nor am I financially
13 interested in the action.

14 IN WITNESS WHEREOF, I set my hand and seal this
15 11th day of December, 2012.

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MARY (RAINEY) STOCKTON, CSR

Notary Public

P.O. Box 2636

Boise, Idaho 83701-2636

My commission expires February 3, 2017

Public Hearing of THE IDAHO OUTFITTERS AND 12/4/2012

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